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January 31, 1891, to October 2, 1897

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729	U.S.A. v. Lesnet	531, 547, 550, 597
730	Givens v. Veeder	541, 593
731	U.S.A. v. Denver & R. G. RR Co.	496, 516
732	Territory v. U.S. Trust Co. of N.Y.	548, 552
733	Territory v. U.S. Trust Co. of N.Y.	548, 549, 553
734	Barnett v. Barnett	543, 598
736	Santa Fe Gas & Electric Co.v.Hitchcock	554
737	Territory v. Chavez	559, 596
738	Horse Springs Cattle Co. v. Schofield	503, 506, 545, 560

739	Rice v. Schofield	551, 554
740	Re. Roe Chung	492, 497, 517, 557
746	Freudenthal v. Bull	504
749	Thompson v. Sandia Mg & Sm Co.	508
751	Territory v. Casey	541
752	Hall v. Hale	521
753	U.S.A. v. R.G. Dam & Irrig Co.	533, 540, 556, 561
756	Territory v. Daniels	543, 545
	In re. Adolfo Chavez	188, 209, 311

considered and adjudged by the Court that said defendant recover of James O'Niles and D. T. Cummingham sureties as aforesaid, his costs as aforesaid and that execution issue therefor.

414 United States
vs.
Frank X. Saucier et al. Appellants.
} Appeal from 3rd District

This cause having been argued by counsel and submitted to, and taken under advisement by the Court, the Court, being now sufficiently advised in the premises, announces its decision by Associate Justice McFie, reversing the judgment of the Court below and remanding this cause to that Court for a new trial and further proceedings, for reasons stated in the opinion on file, all the members of the Court concurring; It is therefore considered and adjudged by the Court that the judgment in this cause of the Third Judicial District Court of this Territory, whence it came into this Court be and the same hereby is reversed and set aside and this cause remanded to that Court with directions to reinstate the same upon the docket and to grant said defendants a new trial therein: And it is further considered and adjudged by the Court that said plaintiff pay the costs of this suit in this Court to be taxed.

The Judges of the Supreme Court of the Territory of New Mexico now assembled at the Seat of Government of said Territory do hereby fix and appoint the several times and places of holding the Courts in the several districts and limit the duration of the terms thereof, in the manner following, to wit:

In the First Judicial District, beginning on the first Monday in February 1891, and thereafter on the last monday in May and the first Monday in January. At Santa Fe, to continue in session not exceeding six weeks at each term.

In the Second Judicial District, beginning on the first Mondays in March and October, at Albuquerque, to continue in session not exceeding six weeks at each term.

In the Third Judicial District, beginning on the second Monday in March, 1891, and thereafter, on the first Mondays in September and February, at

Crusces, to continue its session not exceeding six weeks at each term.

In the Fourth Judicial District, beginning on the first Mondays in April and November. at Las Vegas, to continue in session not exceeding six weeks at each term.

In the Fifth Judicial District, beginning on the first Mondays in May and December. at Socorro, to continue in session not exceeding six weeks at each term.

It is further ordered that all bonds, rules, motions warrants, writs, subpoenas and other process of said Courts returnable at other times than those above specifies are hereby declared to be, and are, returnable at the times above provided for said courts respectively.

James O'Brien, Chief Justice
L D Lee A.J.
John R McFie. A.J.
Edward P Seeds. A.J.
A A Freeman. A.J.

The judges of the Supreme Court of the Territory of New Mexico. now assembled at Santa Fe. the seat of government of said Territory, do hereby fix the term of the Supreme Court of said Territory at the Capitol. in Santa Fe, on the last Monday of July. 1891, and at same place, and date in each year thereafter

James O'Brien C.J.
L.D. Lee A.J.
John R McFie, A.J.
Edward P. Seeds. A.J.

January 31st 1891

Whereas Summers Burkhart. Clerk of this Court, has rendered an account of his fees for services performed at and previous to the present term of Court. with the items thereof. and has proven. under oath. in the presence of E A Fiske. U.S. Attorney, to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated, and that also, on the days for which per diem is charged, business was actually transacted by said Court, or that said Court was actually opened for business: and whereas. said charges appear to be just and according to law; It is ordered that said account

amounting to three hundred & fifteen dollars and sixty cents be & the same hereby is approved,

It is ordered that the following allowances to be paid by the Territory be & hereby are made, to wit:

New Mexican Printing Company	Printing opinion book		25.00
New Mexican Printing Co.	"	Record	21.60
New Mexican Printing Co.	"	dockets	4.40
S Burkhart	Clerk	24 days attendance	9.60
S. Burkhart	"	Recording Opinions 7200 folios	72.00

415 Albuquerque National Bank Appellant. vs. Jose L. Perea Sheriff & Ex officio Collector of the County of Bernalillo & Clifford L Jackson District Attorney for the Second Judicial District of New Mexico Appellees } Appeal from District Court of Bernalillo County.

Now comes said complainant & appellant by its solicitor. Mr Childers & moves the Court to grant it an appeal from the decree of this Court to the Supreme Court of the United States for reasons stated in its motion & affidavit on file, & it appearing to the Court by said affidavit & motion that the validity of a statute & an authority exercised under the United States is drawn in question in this cause, the Court grants said motion. It is therefore ordered by the Court that said appellant be & hereby is granted an appeal from the decree of this Court to the Supreme Court of the United States. & thereupon the said appellant moves the Court to make and certify a statement of facts in this cause to said Supreme Court. & the Court denies said motion for the reason that it does not consider such statement necessary.

461 In the matter of the application of John H. Sloan & Teodoro Martinez } Habeas Corpus

This proceeding having been heard upon a former day upon the writ of habeas corpus herein before issued herein, the return of the Sheriff thereto, & the motion of said parties opposing and the arguments of counsel. granting of said petition, and the said petitioner being now present in their own proper

allended by counsel, the Court being now sufficiently advised in the premises announces its decision by Associate Justice McFie denying said application to be released, and remanding said petitioners to the custody of the Sheriff of Santa Fé County until the fine and costs mentioned in said return are fully paid and satisfied. (for reasons stated in the opinion on file) Associate Justice Lee concurring. Associate Justice Freeman concurring in a separate opinion filed. And Chief Justice O'Brien dissenting. It is therefore considered and adjudged by the Court that the said petition be and the same hereby is denied and said petitioners, John H. Sloan and Teodoro Martinez remanded to the custody of the Sheriff of Santa Fé County to be held by him until the fine and costs mentioned in the said return be fully paid and satisfied: And it is further considered and adjudged by the Court that said petitioners pay the costs of this proceeding to be taxed and that execution issue therefor.

In the Matter of the
461 application of John H Sloan and } Habeas Corpus
Teodoro Martinez

Now come said petitioners by their attorneys, and move the Court to grant them an appeal from the judgment in this proceeding to the Supreme Court of the United States, and to stay the execution of said judgment during the pendency of this cause and to direct what the record on appeal shall contain and the Court being sufficiently advised in the premises, grants said appeal: It is therefore ordered by the Court that said petitioners be and hereby granted an appeal from the judgment in this proceeding to the Supreme Court of the United States: and it is further ordered that said appellants file an appeal bond in the usual form in the sum of one thousand dollars, and that they be released from the custody of said sheriff of Santa Fé County, until the final decision of the said Supreme Court of the United States in the premises upon their each filing with the Clerk of this Court a bail bond in the sum of four hundred and thirty five dollars, conditioned as provided by law and to be approved by the Chief Justice: And it is further

Ordered by the Court that the record to be certified to said Supreme Court of the United States shall contain all the record entries & papers filed in this proceeding including the transcript of the record in the mandamus proceeding lately pending in the District Court of Santa Fe wherein Benjamin M. Read was relator & said petitioner & one George L. Wyllys were respondents, & which transcript was brought into this Court by writ of error by said petitioners, filed as a part of said Sheriff's return.

462 In the matter of the application of Pedro Delgado } Habeas Corpus.

This proceeding having been heard upon the writ of habeas corpus heretofore issued herein, & the return of Francisco Chaves, Sheriff of Santa Fe County to said writ, & the motion of the parties opposing the granting of said petition to quash said writ, & having been taken under advisement by the Court, the Court being now sufficiently advised in the premises, said petitioner being present in his own proper person & attended by counsel, announces its decision by Associate Justice Freeman, denying said petition & remanding said petitioner to the custody of the Sheriff until he purge himself of contempt of the District Court for reasons stated in the opinion on file. Associate Justices Lee & McFie concurring & Chief Justice O'Brien dissenting. It is therefore considered & adjudged by the Court that said petition be & the same hereby is denied & said petitioner Pedro Delgado be & he hereby is remanded to the custody of the Sheriff of Santa Fe County, until he purge himself of the contempt mentioned in the commitment under which he is held; & further that said petitioner pay the costs of this proceeding to be taxed & that execution issue therefor

In the matter of the application of Pedro Delgado } Habeas Corpus

462 Now comes said petitioner in his own proper person attended by counsel, & moves the Court to grant him an appeal from the judgment in this proceeding to the Supreme Court of the United States, & to admit said petitioner to bail during the pendency of this proceeding thereon, & to direct what the record on such appeal shall contain. & the Court, after argument of counsel, being sufficiently advised in the premises, grants said appeal, but denies the application to be admitted to bail. It is therefore ordered by the Court that said petitioner Pedro Delgado be & hereby is granted an appeal from the judgment of this Court, in this proceeding to the Supreme Court of the United States upon his filing an appeal bond in the usual form in the sum of five hundred dollars to be approved

Chief Justice as to form and sufficiency. And It is further ordered by the Court that the record on appeal to said Supreme Court shall contain all record entries of proceedings and papers filed herein.

Summers Burkhart, having tendered to this Court his resignation as Clerk thereof, the same is now accepted, to take effect upon the qualification and appointment of his successor.

Harry S. Clancy is now appointed Clerk of this Court, and It is ordered that he enter into a bond in the penal sum of five thousand dollars to the United States to be approved by the Chief Justice, before he enter upon the discharge of his duties as such Clerk, and that same be spread upon the records of this Court.

It is ordered that the Court do now adjourn until July 23. 1891.

James O'Brien
Chief Justice
W. D. Lee
Associate Justice
John R. McFie
Associate Justice
A. Freeman
Associate Justice
Edward P. Seeds.
Associate Justice

Day, A. D. 189

Know all men by these presents that we Harry D. Blaney as principal, and Pedro Perea and Frank H. Blaney as his sureties, are held and firmly bound unto the United States of America in the sum of Five Thousand dollars, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents, sealed with our seals and dated this thirty first day of January, one thousand eight hundred and ninety one.

The condition of the above obligation is such, that whereas, the said Harry D. Blaney has been this day appointed Clerk of the Supreme Court of the Territory of New Mexico;

Now therefore, if the above bounden Harry D. Blaney shall faithfully discharge the duties of his office and seasonably record the decrees, judgments and determinations of the court of which he is Clerk, then this obligation to be null and void; otherwise to remain in full force and effect.

Harry D. Blaney (Seal)
Pedro Perea (Seal)
Frank H. Blaney (Seal)

Territory of New Mexico,
County of Santa Fe

Before me the undersigned, a notary public in and for said county and territory, on this 31st day of January, A. D. 1891, personally came Harry D. Blaney, Pedro Perea and Frank H. Blaney personally known to me to be the same persons who executed the foregoing instrument and acknowledged that they executed the same for the uses and purposes therein expressed; and the said Pedro Perea and Frank H. Blaney being by me duly sworn, did depose and say each for himself that he is worth the sum of five thousand dollars over and above his just debts and liabilities and the amount by law exempt from execution.

In Witness whereof I have hereunto set my hand and Notarial Seal, the day and year last above written.

(Seal)

S. D. Lazier,
Notary Public

Having examined the within bond, I here

the same and the merits thereon.

James O'Brien
Chief Justice, Sup. Court
Dated January 31st 1891. Territory of New Mexico.

Territory of New Mexico,
County of Santa Fe

I Harry A. Clancy, being appointed Clerk of the Supreme Court of the Territory of New Mexico, do solemnly swear that I will truly and faithfully enter and record all the orders, decrees, judgments and proceedings of the said court, and that I will faithfully and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding. So help me God.

Harry A. Clancy.

Subscribed and sworn to before me this 2nd day of February, A. D. 1891.

Seal

A. B. Walker,
Clerk District Court.

Twenty Fifth Day.

Court meets pursuant to adjournment

Present:

Honorable James O'Brien, Chief Justice
Honorable E. S. Reed, Associate Justice
Honorable N. D. Lee, Associate Justice
Honorable J. R. McFie, Associate Justice.
Eugene A. Fiske, Esq, United States attorney.
Charles M. Conklin, Deputy United States Marshal.
H. D. Blaney, Clerk.

298

Lynch Brothers, appellees, vs. Grayson and Company, appellants. } appeal from District Court of Doña Ana County.

Now come the said appellants by their attorneys Messrs T. B. Catron and A. B. Elliott, and file their motion for a rehearing of this cause; and upon motion of said appellants by their said attorneys, It is ordered by the Court that this cause, together with said motion for rehearing, stand continued until the next regular term of this Court.

It is ordered that the Court do now adjourn until tomorrow morning at ten o'clock.

Forty Sixth Day.

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterdays proceedings is read and approved.

The Town of Albuquerque, and Jose L. Perea, Sheriff and ex-officio Collector of the County of Bernalillo, Territory of New Mexico, Plaintiffs in Error

vs.

Charles Zeiger Defendant in Error

Error to District Court of Bernalillo County

281

This cause having been argued by counsel, and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Chief Justice O'Brien, affirming the decree of the lower court, Associate Justices Lee, Newcomb and Seeds concurring. It is therefore considered and adjudged by the Court that the decree in this cause of the District Court of Bernalillo County whereon this cause came into this court, be and the same hereby is affirmed; that the said Plaintiffs in error, and each of them, and each and every of their several servants agents and successors, officers and deputies be and they are hereby perpetually enjoined and restrained from selling or threatening to sell the property of the defendant in error Charles Zeiger to satisfy the plaintiff in error The Town of Albuquerque for the sum of One hundred and one dollars and fifty cents and the penalty and costs thereto attached, or any part thereof for the construction of a stone curbing on Railroad Avenue in the town of Albuquerque; and it is further considered and adjudged by the court that said defendant in Error Charles Zeiger recover of said plaintiffs in Error The Town of Albuquerque and Jose L. Perea, Sheriff and Ex-officio Collector of the County of Bernalillo, Territory of New Mexico his costs in this cause expended, as well in the court below as in this court to be taxed, and that he have execution therefor.

383 Pedro Cena, Garnishee of Jesus M. Pena vs The Colorado National Bank of Texas — Error to District Ct. of Bermalillo County

This cause having been argued by counsel and submitted to and taken under advisement by the Court at a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Lee, reversing the judgment of the Court below and remanding this cause to that Court for a new trial, for reasons stated in the opinion; on file, Chief Justice O'Brien and Associate Justices Seeds and McFie concurring: It is therefore considered and adjudged by the Court that the judgment in this cause of the District Court of Bernalillo County, whence this cause came into this Court be and the same hereby is reversed and set aside, and this cause remanded to said Court with directions to grant a new trial therein: and It is further considered and adjudged by the Court that the said Pedro Cena Garnishee of Jesus M. Pena recover of said The Colorado National Bank of Texas, his costs in this cause expended as well in the Court below as in this Court to be taxed, and that he have execution therefor:

390 Peter Trambley and Ernestine Trambley vs George Luterman — Appellees. / Appellant — Appeal from District Court of San Miguel County.

This cause having been submitted to, and taken under advisement by the Court at a former day of the present term, the Court being now sufficiently advised in the premises, announces it decision by Chief Justice O'Brien, affirming the decree of the Court below, Associate Justices Seeds and McFie concurring: It is therefore considered and adjudged by the court that the decree of the District Court of San Miguel County in this cause, whence this cause came into this Court be and the same hereby is affirmed, and that in accordance therewith the said appellant, his heirs and assigns, may use the water in the main acequia described in the bill of complaint for the necessary irrigation of his land for horticultural and agricultural purposes; that appellant, his heirs and assigns be, and they are hereby perpetually enjoined and restrained from drawing off the water of said acequia for the purpose of accu

or any other manufacturing purpose, so as to reduce the volume of water in said ditch thereby, so as to reduce the carrying capacity of the defendants mill at the capacity the said mill contained at the commencement of this action: and that plaintiff may use the water of said acequia not required by the said mill as fixed at said capacity, and may increase the dam which holds back the water from said acequia and to the extent which the flow of water in said ditch may be the cause of the said mill of said capacity, so may use the said water, and it appearing to the court that Charles Floyd and D. M. Kelly are owners of the appeal and therein, and it further considered and adjudged by the court that the said defendants Otero Staab, Gunter, and Martin Spiegelberg owners of the said Charles Floyd and D. M. Kelly owners as aforesaid do also the said Spiegelberg appellant their costs in this cause expended in the court below, as in this court, to be taxed, and that they have execution therefor.

Charles H. Gildersleeve, Plff in Error.
vs
The New Mexico Mining Company, Etal Defts in Error

Error to District Court of Santa Fe County.

This cause having been argued by counsel, and submitted to and taken under advisement by the court at a former day of the present term, the court being now sufficiently advised in the premises announces its decision by Chief Justice O'Brien, affirming the decree of the court below for reasons stated in the opinion now filed, Associate Justices Seeds, Lee and McFie concurring. It is therefore ordered, adjudged and decreed that the decree of the District Court in this cause, in and for the County of Santa Fe from whence this cause came into this court, be and the same hereby is affirmed, and that in accordance therewith, said bill of complaint be, and the same hereby is dismissed, and that said defendants in error recover of said plaintiff in error their costs in this behalf expended to be taxed, and that they have execution therefor.

It is ordered that the court do now adjourn until to-morrow morning at ten o'clock.

Twenty Seventh Day, July 25th, 1891

Court meets pursuant to adjournment

Present as upon yesterday.

The record of yesterdays proceedings is read and approved

317. John D. Perkins, Plaintiff in Error, vs August Voorlichr, etal, Defts in Error } Error to District Court of Bernalillo County.

The motion for a re-hearing of this cause having been filed and taken under advisement by the court at former term, the court doing now sufficiently advised in the premises, denies said motion for reasons stated in the opinion of the court on file. It is therefore ordered by the court that said motion be and the same hereby is denied.

409 Charles H. Gildersleeve, Plff. in Error, vs The New Mexico Mining Company, etal, Defts in Error } Error to District Court of Santa Fe County.

Now comes said plaintiff in error by his Solicitor E. A. Fiske Esq. and files his motion for a re-hearing of this cause, and said defendants in error come by their Solicitor E. L. Bartlett Esq., and present to the court their motion for the taxing of the costs in this cause; and by agreement of the said parties by their respective solicitors. It is ordered by the court that said two motions stand continued until the next term of this court.

316 David A. Muir, Appellee, vs The Portsmouth Battle Company, Appellant } Appeal from District Court of San Miguel County.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court at a former day of the present term, the court doing now sufficiently advised in the premises, announces its decision by Chief Justice O'Brien reversing the decision of the court below, for reasons stated in the opinion of the court on file, Associate Justices Seeds, Lee and McFie concurring. It is therefore considered and adjudged by the court that the judgment herein of the District court in and for the County of San Miguel whence this cause came into this

be and the same hereby is reversed and set aside; and it is further considered and adjudged by the Court that the said appellant The Portsmouth Cattle Company recover of the said appellee David B. Orr its costs in this behalf expended, as well in the Court below as in this Court to be taxed, and that it have execution therefor.

395 Guadalupe D de Garcia y Pena, appellee vs Mariano Garcia, Executor, etal, appellant } Appeal from District Court of Doña Ana County.

On motion of the said appellant by his Attorney J. H. Knabel Esq, It is ordered by the Court that the motion for a rehearing of this cause heretofore submitted to the Court be and the same hereby is continued until the next term of this Court.

397 Refugio Armijo, etal, appellees vs Lorenzo Abeytia, etal, appellants } Appeal from District Court of Bernalillo County.

Now come said appellees by their attorney M G Reid Esq. and show to the Court here that the Clerk of this Court inadvertently omitted from the judgment entered in this cause at the present term of this Court, on the twenty fourth day of this term, the name of Antonio A. Salas, one of the defendants and appellants in this cause, against whom the said judgment should have been entered together with the other defendants Lorenzo A. Abeytia and Dionisia V. Abeytia, and the said appellees move the Court to correct and amend the said judgment by inserting therein the name of the said defendant Antonio A. Salas after the names of the other of said defendants Lorenzo A. Abeytia and Dionisia V. Abeytia, as one of the judgment debtors, nunc pro tunc as of the said twenty fourth day of this term, the date of the entry of said judgment, and the Court being sufficiently advised in the premises, grants said motion: It is therefore considered and adjudged by the Court that the judgment of the Court herein rendered on the twenty fourth day of the present term, be and the same hereby is corrected and amended by inserting therein the name of the said defendant Antonio A. Salas after the names of the other of said defendants Lorenzo A. Abeytia and Dionisio V. Abeytia as one of the judgment debtors, nunc pro tunc as of the said twenty fourth day of this term, the date of the

entry of said judgment.

Whereas H. D. Blaney, Clerk of this court has rendered an account of his fees for services performed at the present term of court with the items thereof, and in presence of Eugene A. Fiske, U. S. Attorney, has proven on oath, to the satisfaction of the court that the services therein charged for have been actually and necessarily performed as therein stated, and also that on the days for which per diem is charged business was actually transacted in court, or that court was actually opened for business; and, whereas said charges appear to be just and according to law it is ordered that said account amounting to forty dollars and ____ cents be and the same is hereby approved.

Whereas Trinidad Romero United States Marshal has rendered to this court an account of his disbursements for pay of bailiffs, etc, incurred at and previous to the adjourned term 1891 at Santa Fe of the Territorial Supreme court, with the vouchers and items thereof, and in presence of Eugene A. Fiske, United States attorney, has proved on oath to the satisfaction of the court, that the services therein charged have been actually and necessarily performed as therein stated, and that the disbursements charged have been fully paid in lawful money: and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to six dollars be and the same is hereby approved.

Whereas Trinidad Romero United States Marshal has rendered to this court an account of his fees and expenses from the 23rd day of July to the 25 day of July, 1891 with the vouchers and items thereof, and in presence of Eugene A. Fiske, United States attorney, has proved on oath, to the satisfaction of the court, that the services and travel charged therein were actually and necessarily performed, and that the expenses were necessarily incurred; and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to fifty five dollars and eighty four cents be and the same is hereby approved.

Whereas Eugene A. Fiske, Esq., attorney of the United States for the Territory of New Mexico has rendered to this court an account of his services performed dur-

the Dorcuth adjourned term of this court, and has proved on oath to the satisfaction of the Dourt that the services therein charged for have been actually and necessarily performed as therein stated, and that on each day for which per diem is charged business was actually transacted in court or court was open for the transaction of business, and whereas said charges appear to be just and according to law, It is ordered that said account amounting to thirty dollars, be and the same is hereby approved.

It is ordered by the Dourt that the following allowance be, and the same hereby is made, to be paid by the Territory of New Mexico:-

W. D. Clancy, Clerk. 3 days attendance, at $4.00 per day $12.00

It is ordered, by the Dourt that all causes, motions, rules, orders and other proceedings not otherwise disposed of be, and the same hereby are continued until the next terms of this court.

It is ordered that Dourt do now adjourn sine die.

James O'Brien.
Chief Justice
W. D. Lee
Associate Justice.
John R. Mc[illegible]
Associate Justice
Edward P. Seeds
Associate Justice

First Day. Monday, July 27th A.D. 1891.

At a regular term of the Supreme Court of the Territory of New Mexico, begun and held at Santa Fe, New Mexico, the seat of government of said Territory, on the last Monday of July, A.D. 1891, the same being Monday, July 27th, A.D. 1891.

Present:-

Honorable James O'Brien, Chief Justice.
Honorable Edward B. Seeds, associate Justice.
Honorable William D. Lee, associate Justice.
Honorable John R. McFie, associate Justice.
Honorable A.A. Freeman associate Justice.
H.A. Fiske Esq., District Attorney for the United States.
C.L. Bartlett Esq., Solicitor General of the Territory of New Mexico.
Trinidad Romero, United States Marshal.
H.D. Blancy, Clerk.

It is ordered by the Court that Jose D. Sena be and he hereby is appointed Crier of the Court, and he thereupon appears and is duly sworn as such.

It is ordered by the Court that Harry Snyder, Charles M. Conklin and Hipolito Vigil be, and they hereby are appointed Bailiffs to the Court, and they thereupon appear and are duly sworn as such.

Edward D. Bullard, Plff. in Error,
vs.
Lorenzo Lopez, Assignee, Deft. in Error. } Error to District Court of San Miguel County.

On motion of said defendant in Error by his attorney T.B. Catron Esq., It is ordered by the Court that this cause be, and the same hereby is set down for hearing on the incoming of Court on the morning of August 2nd. 1891.

420

Wilson Waddingham, et al, Plffs. in Error,
vs.
Francisco Lucero, et al, Defts. in Error } Error to District Court of San Miguel County.

435

On motion of said Plaintiffs in error by their attorney T.B. Catron Esq, It is ordered by the Court that this cause be and the same hereby is set down for hearing on the incoming of Court on the morning of August 5th 1891.

H47 — The Territory of New Mexico appellee vs Juanita Martinez de Gutierrez appellant — Appeal from District Court of Bernalillo County.

Now comes the said appellee by E. L. Bartlett, Esq. her Solicitor General, and suggests to the Court here, the death of the said appellant, and moves the Court to abate this cause, and the Court being sufficiently advised in the premises, grants said motion. It is therefore considered and adjudged by the Court that this cause be and the same hereby is abated.

H46 — The Territory of New Mexico vs Charles H. Gildersleeve, Deft. in Error vs Jose L. Perea, Sheriff, Deft. in Error — Error to District Court of Bernalillo County.

On motion of said relator by his attorney, It is ordered by the Court that said relator be, and he hereby is given until the second Monday of the present term, in which to file his brief herein.

H66 — The Territory of New Mexico, Appellant vs Romulo Martinez, et al, Appellees — Appeal from District Court of Santa Fe County.

H67 — The Territory of New Mexico, Appellant vs Juan Holmes, et al, Appellees — Appeal from District Court of Santa Fe County.

H68 — The Territory of New Mexico, Appellant vs Luciano Baca, et al, Appellees — Appeal from District Court of Santa Fe County.

H69 — The Territory of New Mexico, Appellant vs Luciano Baca, et al, Appellees — Appeal from District Court of Santa Fe County.

On motion of said Appellant by her Solicitor General E. L. Bartlett, Esq. It is ordered by the Court that the said Appellant be and she hereby is given until August 6th 1891, in which to file her briefs in the foregoing four causes.

H72 — Scottish Mortgage & Land Investment Company, Plff. in Error vs William H. McBroom, Deft. in Error — Error to District Court of San Miguel County.

On motion of said plaintiff in error by its attorn

A. A. Jones Esq. It is ordered by the Court that said Plaintiff in Error be and it hereby is given until January 1. 1892 in which to file its assignments of Error, transcript of record and briefs herein.

1471 Ella Dykes, Plff in error, Etal vs. Atlantic & Pacific R. R. Co. Deft. in error — Error to District Court of Bernalillo County.

1470 Geronimo Candelaria, Plff. in Error vs. Atchison, Topeka & Santa Fe R. R. Co. Deft. in Error — Error to District Court of Bernalillo County.

On motion of the said defendants in error in the foregoing two causes, It is ordered by the court that said defendants in error be and they hereby are given until August 1st. 1891, in which to file their briefs herein.

1476 Edward Muller, appellant vs. Albuquerque Hotel and Opera House Company, Etal, appellees — Appeal from District Court of Bernalillo County.

By agreement of said parties by their respective attorneys, It is ordered by the Court that the said appellant have until the first Thursday of the present term in which to file his brief herein, and that said appellees have until the second Monday of the present term in which to file their brief herein.

1478 Henry Nimske, appellant vs. Henry Dold, appellee — Appeal from District Court of San Miguel County.

Now comes the said appellee by her attorney A. A. Jones Esq. and enters her appearance herein, and on motion of said appellee by her attorney, It is ordered by the Court that said appellant have until September 1. 1891 in which to file his brief herein, and that said appellee have until January 1, 1892, in which to file her brief herein.

1480 Nathaniel Bell, appellant vs. Reuben Shellcom, Etal, appellees — Appeal from District Court of Grant County.

On motion of said appellant by his attorney T. D. Catron Esq., It is ordered by the Court that said appellant have until August 10. 1891 in which to file his brief herein, and that said appellees have until August 20.

1487 — on motion of Pltf's Atty herein

The Territory of New Mexico Apltee, vs U. S. Edic- apltant — Appeal from District Court of Bernalillo County.

On motion of said Apltee this Cause is ordered by the Court that said Apltee have until July 1st 1892 in which to file their brief herein

It is ordered that Court do now adjourn until to morrow afternoon at two o'clock

Tuesday Day, Tuesday, July 28, 1891

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterdays proceedings is read and approved.

1406 — Cesar A. Lucero, etal, Apltts. in Error, vs No. Mc. Hutchin, et al, Apltee. in Error — Error to District Court of Grant County.

It is ordered by the Court in accordance with the stipulation of said parties on file, that this cause be, and the same hereby is continued until the next term of this court.

Mallaney — It is ordered that Court do now adjourn until to morrow morning at ten o'clock.

Whereas Cunrado Romero United States Marshal has rendered to this Court an account of his disbursements for fees of witnesses &c. and services to the July term, 1891 of Santa Fe of the Dist. Supreme Court, with the vouchers and items thereof, and in behalf of Eugene A. Fiske United States Attorney, has proved, on oath, to the satisfaction of the Court

that the disbursements charged have been fully paid in lawful money: and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to thirty six dollars and thirty cents be and the same is hereby approved.

It is ordered that Court do now adjourn until to-morrow morning at ten o'clock.

Third Day. Wednesday, July 29th, 1891.

Court met pursuant to adjournment.

Present, as upon yesterday.

The record of yesterday's proceedings is read and approved.

On motion of H. D. Rodey Esq. It is ordered by the Court that Thomas D. Keeling Esq. a member of the Bar of the Third Judicial Distrct Court of this Territory be, and he hereby is admitted to practice as an attorney, Solicitor and Counsellor of this Court, and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

On motion of H. D. Rodey Esq., It is ordered by the Court that James A. Fielder Esq. a member of the Bar of the Third Judicial Distrct Court of this Territory be, and he hereby is admitted to practice as an attorney, Solicitor and Counsellor of this Court, and he thereupon appears in open Court, and takes the official oath prescribed by the rules of this Court.

1428 The New Mexican Railroad Company Pltf. in Error vs George B. Hendricks, et al. Defts. in Error } Error to District Court of San Miguel County

By agreement of said parties by their respective attorneys, It is ordered by the Court that this cau

Third Day, Wednesday, July 29 A. D. 1891

[illegible] day of [illegible] A. D. 1891

[illegible] Error

[illegible] Error to District Court of Bernalillo County.

[illegible] Error

[illegible] Error to District Court of Bernalillo County.

[illegible] Error

[illegible] Error to District Court of Bernalillo County.

[illegible] Error

[illegible] Error to District Court of Santa Fe County.

Now come said defendant in error by [illegible], Esq. their [illegible] and produce to the Court a transcript of the record in this cause showing that a writ of error to this Court was sued out by the said

plaintiffs in error, and he moves the court to docket th
and affirm the judgment of the lower court for the reason
that said plaintiffs in error have failed to docket this cause
and file a transcript of record with the clerk of this court
at least ten days before the first day of the present term
to which said writ of error was returnable, and the court b
ing sufficiently advised in the premises, grants said motion
It is therefore considered and adjudged by the court that
judgment of this cause of the District Court of Dona An
County, whence this cause came into this court, be and t
same hereby is affirmed; and It is further considered and a
judged by the court that the said relator and defendant in
Error Benjamin M. Read recover of the said plaintiffs in error
John N. Sloan George L. Nalley and Isidoro Martinez his costs
in this behalf expended to be taxed, as well in the court bela
as in this court, and that he have execution therefor.

1145

Guillermo Trujillo, Fernando Salazar
David Struck and Silviano Lucero,
vs. Plffs. in Error
The Territory of New Mexico, on the
relation of Juan Bautistevan
Deft. in error

Error to District court
of Taos County.

Now comes said defendant in error by E. L. Bartlett &
District Clerk of said Territory, and presents to the court here a
transcript of the record in this cause showing that a writ of error
to this court was sued out by said plaintiffs in error, and he mov
the court to docket this cause and affirm the judgment of the lowe
court for the reason that said plaintiffs in error have failed to docke
this cause and file a transcript of record with the clerk of this cau
at least ten days before the first day of the present term to whi
said writ of error was returnable, and the court being sufficiently a
vised in the premises, grants said motion: It is therefore considered
adjudged by the court that the judgment in this cause of the Distric
court of Taos County, whence this cause came into this court, be an
the same hereby is affirmed; It is further considered and adjudged
the court that the said defendant in error, Juan Bautistevan recover of th
said Guillermo Trujillo, Fernando Salazar, David Struck and Silviano Lucero
and of their sureties upon the cost bond herein, Alexander Hunderg and
Henry L. Young this costs in this behalf expended to be taxed, and
that execution issue therefor; And It is further considered and adjudged
by the court that the said Territory of New Mexico recover of th
said Guillermo Trujillo the sum of fifty dollars, of the said Fernand
Salazar the sum of twenty five dollars, of the said David Struck
the sum of twenty five dollars, and of the said D...

...Day, Thursday, Dec. 24, A. D. 1891

Fourth Day, Thursday, July 30, 1891

Court meto pursuant to adjournment.

Present as upon yesterday.

The record of yesterdays proceedings is read and approved.

On motion of N. B. Field Esq. It is ordered by the Court that D. H. Ranger Esq, a member of the bar of the Second Judicial District Court of this Territory be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court, and takes the oath prescribed by the rules of this court.

On motion of T. B. Catron Esq., It is ordered by the Court that H. E. Coons, Esq, a member of the bar of the First Judicial District Court of this Territory be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court and takes the oath prescribed by the rules of this court.

1455 Marshall Field & Co. etal, Plffs. in Error
vs
M. Romero & Bro. etal, Defts. in Error
Error to District Court of San Miguel County

Now come the said defendants in error, and move the court for reasons set forth in their motion on file, to dismiss the writ of error herein; and said motion being argued by counsel, Mr. Dalzell Esq, for Defendants in error and Messrs. Catron and Blancey for Plffs. in Error, is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

406 Jasper D. Bartlio and Mitchell Bartlio, Plffs. in Error,
vs
H. H. Whitehill, William L. Gardner and L. Percival Giles, Defts. in Error
Error to District Court of Grant County.

It is ordered by the court, by direction of Messrs. Field and Fielder attorneys for said plaintiffs in error, that the said writ of error be, and the same hereby is dismissed: It is therefore considered and adjudged by the court that said writ of error be, and the same hereby is dismissed, and that the said defendants in error H. H. Whitehill, William L. Gardner and L. Percival Giles, as to said writ of error go hence without day, and recover of said plaintiffs in error Jasper D. Bartlio and Mitch-

their costs in this behalf expended to be taxed, and that they have execution therefor.

H33 — Charles H. Gildersleeve, Plff in Error
vs
Ada J. Atkinson, Admx, Deft in Error
— Error to District Court of Santa Fe County.

This cause coming on to be heard upon the transcript of record, assignment of errors and briefs filed herein, is argued by T. B. Catron Esq. for said defendant in error, no one appearing for said plaintiff in error, and is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

H34 — August Kirchner, Appellee
vs
Daniel M. Laughlin, Appellant
— Appeal from District Court of Santa Fe County.

By agreement of the said parties by their respective Counsel herein It is ordered by the Court that this cause be, and the same hereby is set down for hearing at the opening of Court upon the morning of August 7. 1891.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Fifth Day, Friday, July 31st, 1891.

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterdays proceedings is read and approved.

393 George L. Brooks, Plff in Error, vs. The United States of America, Defk in Error. — Error to Second Judicial District Court.

This cause having been submitted to and taken under advisement day, the Court at a former term of this Court, the Court being now sufficiently advised in the premises, announced the decision by Associate Justice Lee the Chief Justice and the other Associate Justices concurring, reversing and remanding this cause for proceedings in accordance with the views contained in the opinion of the Court on file: It is therefore considered and adjudged by the Court that the judgment of the District Court of the Second Judicial District of this Territory, whence this cause came into this Court, overruling the demurrer of said Plaintiff in error to the declaration of said defendant in error, &c, and the same thereby is reversed, and that this cause &c and the same thereby is remanded to said District Court with directions to proceed in accordance with the views in the opinion herein expressed.

394 John H. Haan, et al, Plffs. in Error vs. The Territory, ex rel. Benjamin M. Read, Defts. in Error. — Error to District Court of Santa Fe County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs filed herein, is argued by Francis Dawson Esq. for said plaintiffs in error, and by E. L. Bartlett and John H. Knaebel Esquires, for said defendant in error, and is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until next Monday morning at ten o'clock.

Sixth Day. Monday, August 3. 1891.

Court met pursuant to adjournment.

Present as upon Friday last.

The record of Fridays proceedings is read and approved.

No. 1 — The Territory of New Mexico, Plaintiff in Error, vs. Damacio Jaca, Adolfo Armijo et al., Defendants in Error. — Error to District Court of San Miguel County.

Now come the said plaintiff and defendants in error by their respective counsel, and move the Court for leave to withdraw the writ of error heretofore taken herein, and dismiss the appeal heretofore taken herein by said plaintiff, and the said plaintiff in error, and the said defendants in error, by their said counsel, jointly and severally agree to the same, and it is ordered by the Court that said writ of error be and the same is hereby withdrawn, and the appeal dismissed, and that the Court have no further jurisdiction of said cause.

No. 2 — The Territory of New Mexico, Plaintiff in Error, vs. Santiago Gruel, Defendant in Error. — Error to District Court of San Miguel County.

Now comes E. L. Bartlett Esq, Solicitor General of said Territory, and submits this cause to the Court without argument, upon the transcript of record therein, and the Court not being sufficiently advised in the premises to render judgment herein, takes the same under advisement.

No. 3 — The Territory of New Mexico, Plaintiff in Error, vs. Pedro Pedro et al., Defendants in Error. — Error to District Court of San Miguel County.

This cause coming on to be heard upon the motion of said defendants in error to dismiss the writ of error heretofore taken herein by said plaintiff in error, and the Court being sufficiently advised in the premises, doth sustain said motion, and it is ordered by the Court that said writ of error be and the same is hereby dismissed, and that said defendants in error have and recover of and from said plaintiff in error their costs herein expended, to be taxed by the Clerk of this Court, and that said defendants in error have execution therefor. And on the first day of the next regular term of

Thus court in which to file their bills herein.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Seventh Day, Tuesday, August 4. 1891.

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterday's proceedings is read and approved.

On motion of N. C. Wakefield, Esq., It is ordered by the court that E. A. Dobson, Esq., a member of the bar of the Second Judicial District Court of this Territory be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court, and takes the official oath prescribed by the rules of this court.

1410

L. Cary and Company, Appellee
vs
J. Balancio. Appellant

Appeal from District Court of Bernalillo County.

This cause coming on for hearing upon the transcript of record, assignment of errors and brief filed herein, is argued by N. C. Collier Esq. for said appellee, and by W. B. Childers Esq., for said appellant, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

Hay

John H. Alcon, George L. Nunn et al
Isidoro Martinez, Plaintiffs in Error
vs
The Territory of New Mexico, ex rel
Benjamin M. Read, Defendant in Error

Error to District Court of Santa Fe County.

This cause having been argued by counsel, and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Chief Justice O'Brien, affirming the judgment of the court Associate Justices Lee. McFie and Freeman concurring.

therefore considered and adjudged by the court that the judgment in this cause of the District Court in and for the County of Santa Fe herein this cause came into this court, &c. and that same thereby is affirmed: and it is further considered and adjudged by the court that the said defendant in error recover of said plaintiffs in error the amount of the costs in this behalf expended as well in the lower court as in this court, to be taxed, and that he have execution therefor; and it appearing to the court that Charles M. Hilderbrun, N. B. Laughlin and C. M. Cramer are the securities upon the cost bond of said plaintiffs in error, it is further considered and adjudged by the court that the said defendant in error recover of the said Charles M. Hilderbrun, N. B. Laughlin, and C. M. Cramer securities as aforesaid the amount of the costs in this behalf expended, as well in the court below as in this court, to be taxed, and that he have execution therefor.

HHH

United States of America, Appellee
vs
Santa Cruz Valdez, Appellant

Appeal from third Judicial District Court.

On motion of said appellee by her District Attorney, E. A. Fiske, Esq. It is ordered by the court that this cause be, and the same hereby is set for hearing upon August 21, 1891

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Eighth Day, Wednesday, August 5, 1891

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterday's proceedings is read and approved.

H35 Wilson Waddingham, etal, Plffs. in Error, vs. Francisco Lucero, etal. Defts. in Error. — Error to District Court of San Miguel County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel filed herein, is argued by John W. Kinkel Esquire for said plaintiffs in error and by Francis Downs Esquire for said defendants in error, and is submitted to the court and the court not being sufficiently advised in the premises, takes the same under advisement.

1490 Hermino Candelaria, Plff. in Error vs. Atchison, Topeka & Santa Fe R.R. Co., Defts. in Error. — Error to District Court of Bernalillo County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel filed herein, is argued by R. D. Roby Esquire, for plaintiff in error, and by H. L. Waldo, Esquire, for said defendant in error, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Month ... Day. Thursday, August 6. A. D. 1891.

Month Day, Thursday, August 6. 1891.

Court made further progress.

Court as upon yesterday.

The Court proceeded to hear Equity Cases, & it is ordered by the Court that Chas. Clark & Jas. Esquire, a member of the Bar of the Third Judicial District Court of the County of New Mexico, be, and he is hereby admitted to practice as an Attorney, Solicitor and Counselor of this Court and the Marshal, Register in Chancery and the Clerk of this Court and take the oath prescribed by the rules of this Court.

On motion of F. J. Cadin Esquire, It is ordered by the Court that Chas. A. Spiess, Esquire, a member of the Bar of the Second Judicial District Court of the County of Mora, be, and he is hereby admitted to practice as an Attorney, Solicitor and Counselor of this Court, and the Marshal, Register in Chancery and Clerk of this Court and take the oath prescribed by the rules of this Court.

148	United States of America, Appellee vs Estevan Ruiz de Amador, Appellant	Appeal from Third Judicial District Court
149	United States of America, Appellee vs Francisco Ruiz de Lujan, Appellant	Appeal from Third Judicial District Court
150	United States of America, Appellee vs Celesta Chavez, Appellant	Appeal from Third Judicial District Court

The Attorneys of the parties in the foregoing three causes and appeals submitting the same upon printed arguments filed herein, and the Court not being sufficiently advised in the premises, take said causes under advisement.

Ninth Day. Thursday, August 6. A.D. 1891

313 George L. Brooks, Deft. in Error
vs
United States of America, Deft. in Error
Error to Second Judicial District Court.

Now comes the said defendant in error by her District Attorney E.A. Fiske Esquire, and moves the Court for reasons set forth in her motion on file, to grant her a re-hearing of this cause, and the Court not being sufficiently advised in the premises take said motion under advisement.

414 Ella Sykes (now Ella Lutz) etal
vs
Atlantic and Pacific Railroad Company.
Plffs. in Error
Deft. in Error
Error to District Court of Bernalillo County.

This cause coming on to be heard upon the transcript of record, assignment of errors, and briefs of counsel filed therein, is argued by E.B. Robey Esquire, for said plaintiffs in error, and by R.E. Hazeldine, Esquire for said defendant in error, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Tenth Day. Friday, August 7. 1891

Court met pursuant to adjournment.

Journal of last day read.

The record of yesterdays proceedings is read and approved.

414 Territory of New Mexico, Plff. in Error,
vs
Pedro Lucero, Deft. in Error
Error to District Court of San Miguel County.

This cause having been submitted to and taken under consideration by the Court upon a former day of the present term, the Court doth now sufficiently advised in the premises, announces its decision by Associate Justice Associate Justices Bado, McFie and Freeman concurring, dismissing the writ of error therein, for reasons set forth in said

on file. It is thereupon considered by the Court that writ of error be and the same hereby is dismissed, and that the said Defendant recover of Error without day.

H&H

August Niemann, Appellee
vs
Barney M. Daughtin, Appellant

Appeal from District Court of Santa Fe County.

This cause coming on to be heard, upon the transcript of record, assignment of error and brief of counsel filed herein, is argued by Burges & Easton for said Appellant and by John R. Wood for said Appellee, and is submitted to the Court, and the Court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that Court be now adjourned until tomorrow morning at ten o'clock

Eighth Day. Saturday. August 8. 1891.

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterday's proceedings is read and approved.

H63

Silver Paramido. Def. in Error
vs
Agapito Sandoo. Def. in Error

Error to District Court of Valencia County

Now comes M. G. Fitch, Esquire, and suggests to the Court here the death of said Plaintiff in error Silver Paramido, and moves the Court to abate this cause for that reason, and the Court being sufficiently advised in the premises, grants said motion: It is therefore considered by the Court that this cause be and the same hereby is abated. And that said defendant in error Agapito Sandoo, as to said writ of error go thence without day.

476 Edward Medler, Appellant
vs
Albuquerque Hotel & Opera House Co., Etal, Appellees
Appeal from Distrct Court of Bernalillo County

By agreement of the said parties by their respective attorneys, It is ordered by the Court that this cause be, and the same hereby is set for hearing at the incoming of court upon August 11th 1891.

Honorable L. Bradford Prince, late Chief Justice of this Court now appears to the Court, with fitting remarks, the death of the Honorable Samuel B. Axtell, late Chief Justice of this Court: It is thereupon ordered by the Court that ex Chief Justices L. Bradford Prince, Henry L. Waldo and Elisha V. Long, ex-associate Justice William H. Whiteman and ex-attorney Gen: eral William Breeden be and they hereby are appointed a committee of the Bar, to prepare and present to the Court appropriate resolutions expressive of the feeling of the Court and Bar over the death of the late Chief Justice Axtell; and It is further ordered that the Court do now adjourn out of respect to the memory of the late Chief Justice Axtell.

It is ordered that Court do now adjourn until Monday morning at ten o'clock.

Twelfth Day, Monday, August 10. 1891

Court met pursuant to adjournment.

Present as upon Saturday.

The record of Saturdays proceedings is read and approved.

H74 The Territory, ex rel Wm H. Whiteman, Appellee
vs
Demitrio Cruz, Auditor, etc, Appellant
Appeal from Distrct Court of Bernalillo County.

The motion of said appellee to dismiss the appeal herein, having been argued by counsel, and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficient

advised in the premises, denies said motion. It is therefore ordered by the court that said motion be, and the same hereby is denied.

H51 United States of America, Appellee
vs
Andres Gongales, Appellant
Appeal from Third Judicial District Court

By agreement of the said parties, it is ordered by the court that this cause be and the same hereby is continued until the next regular term of this Court.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock

Thirteenth Day, Tuesday August 11, 1891

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterday's proceedings is read and approved

1471 The Territory ex rel. William H. Whiteman, Appellee vs. Demetrio Perez, Auditor etc. appellant. } Appeal from District Court of Bernalillo County

By agreement of the said parties by their respective attorneys, this cause is submitted to the court upon the transcript of record, and brief of appellee on file herein, and the court not being sufficiently advised in the premises, takes the same under advisement.

1476 Edward Medler, Appellant vs. Albuquerque Hotel and Opera House company, etal, Appellees } Appeal from District Court of Bernalillo County.

This cause coming on to be heard upon the transcript of record, assignment of errors and briefs of counsel filed herein, is argued by H. H. Whiteman Esquire for said appellant, and by N. B. Ferguson and W. D. Roday Esquires for said appellees, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Fourth Day, Wednesday, August 12, 1891.

Court met pursuant to adjournment.

Present as upon yesterday.

The record of yesterday's proceedings in the following entitled cause was read and approved.

No. 1165

David Hunt, Plff in Error

vs.

Lida M. Faramus, Def in Error

Error to Pueblo County.

On motion of counsel for plaintiff in error this cause is ordered to be dismissed at his costs.

No. 1181

William H. Dean, Jr. Admr

vs.

Board of County Commissioners of Costa County, Colorado

Error to County Court of Costa County.

This cause coming on to be heard upon the transcript of the record and briefs of counsel for plaintiff in error and defendant in error, and the court having considered the same, and being fully advised in the premises, doth find that there is no error in the judgment of the said County Court in the cause aforesaid, and doth order that the judgment of the said County Court of Costa County be and the same is hereby affirmed with costs to the said defendant in error, the Board of County Commissioners of the County of Costa, and that the said County Court of Costa County have full power and authority to issue execution therefor.

And it is further considered by the court that the said Board of County Commissioners of the County of Costa do recover of and from said William H. Dean, Jr. Admr of the estate of Thomas Dean, deceased, the sum of seventy eight thousand and ninety five dollars and two cents, with interest from the twentieth day of August A. D. 1889, together with the costs in this behalf expended, as well in the court below as in this court, to be taxed. That the said Board of County Commissioners of the County of Costa do forthwith cause the sum of seventy eight thousand three hundred and ninety five dollars and two cents, and the interest thereon due and to grow due from the twentieth day of August A. D. 1889, at the rate of six per cent per annum, and the said costs, to be levied upon and out of the taxable property in the said County, and to be paid into the County Treasury

to the said appellee William M. Cooper Jr, his legal representatives or assigns, upon the delivery of proper voucher or vouchers therefor

Territory of New Mexico, ex rel Charles H. Sidenstrene, Plff. in Error,
vs.
Jose L. Perea, Sheriff, etc, Defl. in Error

Error to District Court of Bernalillo County

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel filed therein, is argued by Mr. J. Warren Bacon for said plaintiff in error, and by F. W. Clancy, Esquire for said defendant in error, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

The committee of the bar appointed upon a former day of the present term to prepare a minute expressive of the feelings of the bar upon the occasion of the death, of the late Chief Justice Axtell, made report which was received through William Burdett Esquire, one of its members, and after appropriate remarks by Mr. Burdett, Mr. Field, William Burdett, W. W. Mills, & Mr. Catron, R. E. Twitchell, John D. Bruhel, L. B. Prince, Esq, which were severally addressed to the court, it is ordered that a duly certified copy of said resolutions be forwarded by the clerk of this court to the family of the deceased. This cause coming on to be heard upon the record, and it appearing that the same was duly docketed in this court that Hon. Edward L. Bartlett, one of the Judges of this court, departed this life on Saturday the 8th day of August, 1891,

Whereupon, upon motion, ordered that this court this hereby, in the death of their late associate, lose a learned & able Judge, a wise counsellor, a courteous gentleman, & a true friend, & that as a mark of respect for the memory of the deceased the bar wear the usual badge of mourning for thirty days, and that a copy of these resolutions be spread upon the minutes of this court, & that the Clerk of this court transmit a copy of the same to the family of the deceased.

Whereupon, upon motion, ordered that this court this hereby, in the death of their late associate, lose a learned & able Judge, a wise counsellor, a courteous gentleman, & a true friend, & that as a mark of respect for the memory of the deceased the bar wear the usual badge of mourning for thirty days, and that a copy of these resolutions be spread upon the minutes of this court, & that the Clerk of this court transmit a copy of the same to the family of the deceased.

Resolved, that during our term as member of the Congress of the United States, Governor of Utah and Governor and Chief Justice of New Mexico, Hon. Edward L. Bartlett has endeared himself to the people of this Territory by his unswerving fidelity to the interests of the people, and made a reputation for intelligence, courage, justice, probity and charity which will be remembered with admiration and reverence by those whose good fortune it was to know him and to associate with him.

Fifteenth Day. Thursday, August 13. 1891

Court met pursuant to adjournment.

Present as upon yesterday.

The record of yesterdays proceedings is read and approved

H38 Excelsior Manufacturing Company, appellant vs Isaac N. Shubloak, appellee — Appeal from District Court of Bernalillo County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel filed therein, is argued by N. B. Childers, Esquire for said appellant, and by N. B. Field, Esquire for said appellee, and is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

1444 United States of America, appellee vs Ubaldo Duran de Amador, appellant — Appeal from District Court of Third Judicial District Court.

This cause coming down submitted to and taken under advisement by the court at a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice O'Brien and Associate Justice Bantz dissenting, affirming the judgment of the court below; It is therefore considered and adjudged by the court, that the judgment of the District Court of the Third Judicial District, dismissing this cause, and writ of error be, and the same hereby is affirmed; and that in accordance therewith the said Ubaldo Duran de Amador be confined in the New Mexico Penitentiary situated at Santa Fe, New Mexico, for the full term of three years beginning with today; and that warrant of commitment issue against her: It is further considered and adjudged that said appellant pay all costs of this proceeding against her, as well in the court below as in this court, and that execution issue therefor: and it appearing to the court that Perfecto Madrid, Trinidad Martinez and Pedro Aguilar are sureties upon the appellants bond of said appellant, It is considered and adjudged by the court that the said United States of America do have and recover of the said Perfecto Madrid, Trinidad Martinez and Pedro Aguilar the amount of her costs in this behalf expended as well in the court below as in this court to be taxed, and that execution issue therefor.

944

United States of America, Appellee
vs.
Francisco Chaves de Lujan, appellant

Appeal from District Court of the Third Judicial District.

The cause having been submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Lee. Chief Justice O'Brien and Associate Justices Judd and Freeman concurring, affirming the judgment of the Court below, the Attorney General having filed a motion that the judgment of the District Court of the Third Judicial District remand the cause into the Court below and the same is granted, and the appellant having filed a motion to dismiss the appeal herein, and the motion having been argued by counsel, it is ordered that the motion be denied, and that the appellant have fifteen days from the date hereof in which to file a brief herein, and that the appellee have fifteen days thereafter in which to file a brief herein, and that the appeal be set down for hearing at the next general term of the Court to be held at the City of Santa Fe, New Mexico, on the first Tuesday in September next.

950

United States of America, Appellee
vs.
Felicita Chaves, Appellant

Appeal from District Court of the Third Judicial District.

The cause having been submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Lee, Chief Justice O'Brien and Associate Justices Judd and Freeman concurring, affirming the judgment of the Court below, it is hereby considered and adjudged by the Court that the judgment of the District Court of the Third Judicial District in the County of San Miguel, be and the same is affirmed, and that in accordance therewith, the said Felicita Chaves be confined in the New Mexico Penitentiary, situated at Santa Fe, New Mexico for the full term of one year beginning with today, and that warrant of commitment issue against it

her: and It is further considered and adjudged by the court that said appellant pay all costs of this proceding against her as well in the court below as in this court and that execution issue therefor: and it appearing to the court that Humphrey Heil and Juan Lobaro are sureties upon the appeal bond of said appellant It is considered and adjudged by the court that the said United States of America do have and recover of the said Humphrey Heil and Juan Lobaro the amount of her costs in this behalf expended as well in the court below as in this court, to be taxed: and that she have execution therefor

H66 Territory of New Mexico, appellant vs. Ramulo Montanez, et al, appellees — appeal from District Court of Santa Fe County

H67 Territory of New Mexico, appellant vs. Juan Holmes, et al, appellees — appeal from District Court of Santa Fe County.

H68 Territory of New Mexico, appellant vs. Lucario Baca, et al, appellees — appeal from District Court of Santa Fe County.

H69 Territory of New Mexico, appellant vs. Lucario Baca, et al, appellees — appeal from District Court of Santa Fe County.

By agreement of said parties by their respective attorneys. It is ordered by the court that the foregoing four causes be, and they hereby are set down for hearing at the incoming of court on next Monday morning.

It is ordered, that court do now adjourn until tomorrow morning at ten o'clock.

Seventh Day. Friday August 14. A. D. 1891

Seventh Day. Friday August 14. 1891

Court met pursuant to adjournment.

Present as when adjourned.

The record of yesterdays proceedings is read and approved

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Eighth Day. Saturday. August 15 1891

Court met pursuant to adjournment.

Present as when adjourned.

The record of yesterdays proceedings is read and approved

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Eighteenth Day, Monday, August 17. 1891.

Court meta pursuant to adjournment.

Present, as upon Saturday.

The record of Saturdays proceedings is read and approved.

1491 The Territory of New Mexico, appellee vs James R. Sutherland, appellant } Appeal from District Court of Bernalillo County.

Now comes the said appellee by B. L. Bartlett, her District Attorney, and presents to the court here a transcript of the record in this cause, showing that an appeal was taken by the said appellant to this court, and he moves the court to docket this cause and affirm the judgment of the court below, for the reason that the said appellant has failed to docket this cause and file a transcript of the record with the Clerk of this court at least ten days before the first day of the present term to which said appeal was taken, and the court being sufficiently advised in the premises grants said motion; It is therefore considered and adjudged by the court that the judgment in this cause of the District Court for the County of Bernalillo where this cause came into this court be, and the same hereby is affirmed, and that in accordance therewith the said appellant James R. Sutherland be confined in the county jail of the County of Bernalillo, New Mexico for the full term of three months beginning with to-day, and that warrant of commitment issue against him; It is further considered and adjudged by the court that said appellant pay all costs of this proceeding against him as well in the court below as in this court to be taxed. And that an execution issue therefor; and it appearing to the court that H. H. Moore, F. A. Hamer, F. L. Pearce and D. Moyer are sureties upon the appeal bond of said appellant, It is further considered and adjudged by the court, that the said appellee The Territory of New Mexico do have and recover of said sureties the amount of their costs in this behalf expended, as well in the court below as in this court, to be taxed, and that she have execution against said sureties therefor.

1448 United States of America, appellee vs Ubania Duran de Amador, appellant } Appeal from District Court of the Third Judicial District.

Now comes the said United States by S. A. Fiske, Esquire, her District Attorney, and the said defendant, although

Eighteenth Day. Monday, August 17th. A. D. 1891.

Debts from Estate
Sum of Four Thousand
Dollars.

Nov.

United States of America, Appellee
vs.
Ernest L. Lapham, Appellant

Appeal from District of Second Judicial Dist.

Now comes the said United States of America, by E.A. Fiske, Esquire her District Attorney, and the said Ernest L. Lapham, although thrice solemnly called, come not but makes default; and it appearing that the said Ernest L. Lapham as principal, and J.M. Chavez, Charles F. Blackington, Joaquin Chavez and W.L. Brooks as sureties on the thirtieth day of October A.D. 1891 entered into a recognizance unto the United States of America in the penal sum of Five Thousand Dollars, conditioned for the appearance of the said defendant and appellant on the first Monday of January A.D. 1892 in this court, to answer the judgment of this court upon said appeal, to abide the decision of this court, under penalty in execution, and also every order and judgment which might be made in the premises, the said J.M. Chavez, Charles F. Blackington, Joaquin Chavez and W.L. Brooks are now thrice solemnly called and required to appear in open court the body of the said Ernest L. Lapham under penalty of the forfeiture of said bond, but come not, nor produce the body, and the court thereupon declares the said bond forfeited; It is therefore considered and adjudged by the court that the United States of America recover of the said Ernest L. Lapham, J.M. Chavez, Charles F. Blackington, Joaquin Chavez and W.L. Brooks, the sum of five thousand dollars the penalty of said bond together with the costs of this forfeiture and judgment, to be taxed.

150

United States of America, Appellee
vs.
Felicita Chavez, Appellant

Appeal from District Court of Third Judicial District

Now come the said United States of America, by E.A. Fiske, Esquire her District Attorney, and the said Felicita Chavez although thrice solemnly called, comes not but makes default and it appearing that the said Felicita Chavez as principal, and Numphrey Hall and Juan Chavez as her securities, on the thirtieth day of September, A.D. 1891, entered into a recognizance and bond unto the United States of America in the penal sum of Five Hundred Dollars, conditioned that the said Felicita Chavez should, on or before the first day of the present term of this court under penalty in the custody of the United States Marshal for the Territory of New Mexico, and abide by the judgment of the District Court of the Third Judicial District in this cause came into this court, which said judgment has been by this court affirmed, the said Numphrey Hall and Juan Chavez were now also thrice solemnly called and required to

in open court the body of the said Felicita Chavez, and remain in the custody of the United States Marshal for the Territory of New Mexico, and abide by the judgment of the District Court of the Third Judicial District whence this cause came into this Court, which said judgment has been by this Court affirmed, and penalty of the forfeiture of said bond, but come not, nor answer her body, and the court thereupon declares the said bond forfeited. It is therefore considered and adjudged by the court that the said The United States of America do have and recover of the said Felicita Chavez, Humphrey Hall and Juan Chavez the sum of five hundred dollars, the penalty of said bond, together with the costs of this forfeiture and judgment, to be taxed.

Appeal from District Court of Santa Fe County

Appeal from District Court of Santa Fe County

Appeal from District Court of Santa Fe County

Appeal from District Court of Santa Fe County.

This cause coming on to be heard upon the motion of the defendant to dismiss the appeal herein, and the same coming on to be heard upon the transcript of record and argument of counsel for and against the same, and the said defendant appearing by E. L. Bartlett and T. B. Catron, Esquires, his attorneys, and the plaintiff appearing by Thos. B. Catron, Esquire, and the said motion being sufficiently advised in the premises, takes said cause under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o clock.

Minutes 1st Day. Tuesday August 18. 1891.

Court meto pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

Whereas, the Legislature has enacted a practice act requiring litigants to serve copies of pleading upon each other, and therefore Rule No 2 of the general rules requiring the blerks of the District Courts to make and preserve office copies for the use of attorneys and parties, has become unnecessary and burdensome, It is therefore ordered that said Rule No 2 be and the same is hereby revoked.

413 Maximiano Romero, Plff in Error
vs.
Antond Luna, Deft in Error
Error to District Court of Taos County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel herein, is argued by E.L. Bartlett Esquire for Plaintiff in error and by M.G. Laughlin Esquire for defendant in error, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the cause under advisement.

Board of Education of East Las Vegas, et al Appellees
vs.
J. M. Tafoya, County Treasurer, Et. Appellant
Appeal from District Court of San Miguel County.

This cause coming on for hearing upon the transcript of record, is argued by E.L. Bartlett, Esquire for said appellant, and by E.V. Long, Esquire for said appellees, is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that the Court do now adjourn until tomorrow morning at ten o'clock.

Twentieth Day, Wednesday, August 19, 1891.

Court meets pursuant to adjournment.

Present as when yesterday.

The record of yesterday's proceedings is read and approved.

386

Thos. H. Ellis, Appellant
vs.
John B. Newbrough and Andrew M. Howland

Appeal from District Court of Dona Ana County.

This cause having been argued by counsel, and submitted to and taken under advisement by the court upon a former term of this court, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Freeman, being joined by Chief Justice Elmo and Associate Justice Lee and both concurring, reversing the judgment of the court below, for reasons stated in the opinion of the court on file; It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Dona Ana, where this cause came into this court, &c. and the same hereby is, reversed, annulled and set aside, and that said appellants and appellants John B. Newbrough and Andrew M. Howland, as to said judgment of same rethereby day, and manner of said stay Mr. Ellis there sate in this behalf expended as well in the court below, as in this court, to be taxed, and that they have execution therefor.

614

Waterman A. [illegible], Appellant
vs.
J. W. Dwight, Appellee.

Appeal from District Court of Luna County

This cause coming on to be heard upon the transcript, and submitted to and taken under advisement by the court at a former term of this court, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Reed, Associate Justice Elmo and Associate Justice Lee concurring, affirming the judgment of the court below, for reasons stated in the opinion of the court on file, Associate Justice Freeman dissenting, for ~~reasons~~ reasons stated in his dissenting opinion on file; It is therefore considered and adjudged by this court that the decree of the District Court in and for the county of Luna, where this cause came into this court, sustaining the demurrer to the bill of complaint herein, and dismissing said bill, be and the same hereby is affirmed, and that said appellee recover of said appellants, his costs in this behalf expended, as well in the

Court below, as in this Court, to be taxed, and that he have execution therefor and it appearing that J. B. Kendall, Mitchell A. Horner and John D. Plemmons, sureties upon the bond for costs on file in this cause, It is considered and adjudged by the Court that the said J. B. Marshall receiver of the said sureties his costs in this behalf expended, as well in the Court below as in this Court, to be taxed, and that he have execution therefor.

L. Berg & Company, Appellees
vs.
H. Badaracco, Appellant

Appeal from District Court of Bernalillo County.

1410

This cause having been argued by counsel, and submitted to, and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Chief Justice O'Brien, Associate Justices McFie, Dede and Freeman concurring, affirming the judgment of the court below; It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Bernalillo, whence this cause came into this court, be and the same hereby is affirmed, and that in accordance therewith the said L. Berg & Company do have and recover of the said H. Badaracco the sum of two hundred and forty five dollars, with interest thereon at the rate of six per centum per annum from the 9th day of November, 1889, the date of the judgment in said District Court, together with their costs in this behalf expended, as well in the court below as in this court, to be taxed, and that they have execution therefor: and it appearing that H. Mauro and Ygnacio Baca by their sureties upon the appeal bond of said appellant, It is further considered and adjudged by the court that said L. Berg & Company recover of the said H. Mauro and Ygnacio Baca by reason their sureties aforesaid the sum of two hundred and forty five dollars the amount of the judgment affirmed as aforesaid, together with their costs in this behalf expended, as well in the court below as in this court, to be taxed, and that they have execution therefor.

Charles McGarvey, Appellee
vs.
Patrick F. Ford, Appellant

Appeal from District Court of San Miguel County.

1111

This cause having been submitted to, and taken under advisement by the court at a former term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Dede, Associate Justices Freeman, Lee and McFie concurring, affirming the judgment of the court below, for reasons set forth in the opinion of the court on file; It is therefore considered and adjudged by the court that the judgment of the District court in and for the County of San Miguel, whence this cause came into this court do, and the same hereby is affirmed, and that in accordance therewith the said Charles McGarvey do have and recover of the said Patrick F. Ford the sum of four thousand three hundred

and eight dollars and seventy two cents with interest thereon at the rate of six per centum per annum from the 1st day of Sept. 1890, the date said judgment in said District Court together with the costs in that behalf expended, as well as the court shall be satisfied to be due to the plaintiff, and that the plaintiff recover; and it appearing to the court that Rufus T. Dain is under such disability that said judgment, it is further considered and adjudged by the court that the said Charles Hogeboom owner of the said Lumber the amount of the costs in this behalf expended, as well as the court shall be satisfied to be due to the plaintiff, and that the plaintiff recover.

1471

Pia Daly, Appellant -
vs.
Herman Bernstein, Appellant

Appeal from District Court of Fayette County.

This cause coming on for hearing upon the briefs of counsel and assignment of errors as argued by Mr. Daly for plaintiff in error, and by Mr. Fuller for defendant in error, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

1428

[illegible] Appeal from District Court of Fayette County.

[illegible] vs.
[illegible]

This cause coming on for hearing upon the briefs of counsel and assignment of errors as argued by Mr. Daly for plaintiff in error, and by Mr. Fuller for defendant in error, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

1486

Error to District Court Grant County

John H. Hoyt, Deft in Error.
vs.
John H. Hoyt, Deft in Error.

This cause coming on for hearing upon the briefs of counsel and assignment of error as argued by Mr. Daly for plaintiff in error, and by Mr. Fuller for defendant in error, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Twenty First Day. August 20, 1891.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

613 | Wm. L. Brooks, Plff. in Error vs. United States of America, Deft. in Error. | Error to District Court of Second Judicial District

The motion of said defendant in error for a rehearing of this cause having been submitted to the court upon a former day of the present term, the court being now sufficiently advised in the premises, denies said motion by Associate Justice Lee, all the other members of the court concurring, for reasons set forth in the opinion of the court on file. It is therefore ordered by the court that said motion be and the same hereby is denied.

411 | Larkin F. Call, et al., Appellees, vs. Elmer M. Gaylord & Theodore H. Newman, Appellants. | Appeal from District Court of Lincoln County.

This cause having been argued by counsel and submitted to, and taken under advisement by this court at a former term of this court, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Lee, as the other Justices of the court concurring, reversing the decree of the court below. It is therefore considered and adjudged by the court that the decree of the District Court of the County of Lincoln, whence this cause came into this court, be, and the same hereby is reversed, set aside and altogether held for naught: and it is further considered and adjudged that the said appellants recover of said appellees their costs in this behalf expended to be taxed, and that they have execution therefor.

95 | Guadalupe de la Garcia et al., Appellees, vs. William Barker, Executor, et al., Appellants | Appeal from District Court of Doña Ana County.

The motion of said appellants for a rehearing of this cause having been submitted to the court at a former term, the court being now sufficiently advised in the premises, denies said motion by Associate Justice Lee, all the other members of the court concurring, for reasons set forth in the opinion of the court on file: It is therefore ordered by the court that said motion be and the same hereby is denied.

Tenth Judicial Day, Friday, January 24, A. D. 1896

H28

Filed 24th day of January 1896

Filed 24th day of January 1896

The Territory of Montana, Appellee,
vs.
Thomas Callaghan, Appellant

This cause came on to be heard upon the appeal of the defendant herein from the judgment of the District Court of the Second Judicial District of the Territory of Montana, in and for the County of Silver Bow, and was argued by counsel for the respective parties, and submitted to the Court for its consideration and decision; and the Court having duly considered the arguments of counsel and the law applicable to the case, now finds that there is no error in the record and proceedings herein, and that the judgment of the District Court should be affirmed.

It is therefore ordered and adjudged by the Court that the said judgment of the District Court of the Second Judicial District of the Territory of Montana, in and for the County of Silver Bow, be and the same is hereby affirmed, and that the said District Court proceed in the execution thereof.

H27

The Territory of Montana, Appellee,
vs.
Thomas Callaghan, Appellant

This cause came on to be heard upon the appeal of the defendant herein from the judgment of the District Court of the Second Judicial District of the Territory of Montana, in and for the County of Silver Bow, and was argued by counsel for the respective parties, and submitted to the Court for its consideration and decision; and the Court having duly considered the arguments of counsel and the law applicable to the case, now finds that there is no error in the record and proceedings herein, and that the judgment of the District Court should be affirmed, and it is therefore ordered and adjudged by the Court that the said judgment of the District Court of the Second Judicial District of the Territory of Montana, in and for the County of Silver Bow, be and the same is hereby affirmed, and that the said District Court proceed in the execution thereof.

Twenty First Day. Thursday, August 20th

465

Henry Grant, Plaintiff in Error
vs.
Pedro Y. Jaramillo, Defendant in Error

Error to District Court of Santa Fe County.

This cause coming on for hearing upon the transcript of record, assignment of errors, and brief of counsel filed therein, is argued by M. G. Naughton Esquire for Plaintiff in error and by F. W. Clancy Esquire for defendant in Error, and is submitted to the court and the court not being sufficiently advised in the premises, takes the same under advisement.

814

John D. M. Linder, Appellant
vs.
Calvin Fisk, Appellee

Appeal from District Court of San Miguel County.

This cause coming on for hearing upon the transcript of record, assignments of error and brief of appellant, is argued by C. F. Linder Esquire for said appellant, no one appearing for said Appellee, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

811

William M. Cooper Jr. Appellee
vs.
Board of County Commissioners of Santa Fe County, Appellant

Appeal from District Court of Santa Fe County.

This cause coming on the said appellant by its attorneys, and moves the court to grant it a hearing of this cause for reasons set forth in its motion on file; and the court not being sufficiently advised in the premises, takes said motion under advisement.

It is ordered that court be now adjourn until tomorrow morning at nine o'clock.

Twenty Second Day, Friday, August 21. 1891

Court met pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

It is ordered by the Court that hereafter no account for employment of special bailiffs for this court shall be allowed, unless such bailiffs shall have been appointed on the recommendation of this court or the Chief Justice thereof

396 Guadalupe S. de Garcia et al, Appellees
vs.
Mariano Garcia, Executor, etc, Appellant
Appeal from District Court of Dona Ana County

Now come the said appellants by their attorney, and move the court to grant them an appeal from the judgment of this court, to the Supreme Court of the United States, and to stay the execution of said judgment during the pendency of this cause therein, and the court being sufficiently advised in the premises, grants said appeal. It is therefore ordered by the court that the said appellants be, and they hereby are granted an appeal from the judgment of this court to the Supreme Court of the United States, and that upon said appellants filing a good and sufficient bond in the sum of two thousand dollars, to the approval of the Chief Justice of this court, execution of the judgment herein be stayed during the pendency of this cause in the Supreme Court of the United States

316 David C. Payne, Appellee
vs.
The Portsmouth Battle Company, Appellant
Appeal from District Court of San Miguel County.

The motion of said appellee for a rehearing of this cause having been submitted to and taken under advisement by the court upon a former day of the present term, the Court being now sufficiently advised in the premises, denies said motion; It is therefore ordered by the court that said motion be, and the same hereby is denied,

798 Lynch Brothers, Appellees
vs.
Brayton & Company, Appellants
Appeal from District Court of Dona, and County,

The motion of said appellants for a rehearing of this cause having been submitted to and taken under advisement by the court

at a former term of this court, the court being now sufficiently advised in the premises, grants said motion: It is therefore ordered by the court that said motion be, and the same hereby is granted, and that said appellants be, and they hereby are granted a rehearing of this cause

H09

Charles H. Gildersleeve, Pff. in Error,
vs.
New Mexico Mining Co., etal Defts. in Error

Error to District Court of Santa Fe County.

The motion of said Plaintiff in error for a rehearing of this cause, having been submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, denies said motion: It is therefore ordered by the court that said motion be, and the same hereby is denied.

H18

William M. Mann, Jr. Appellee
vs.
Board of County Commissioners of Santa Fe County, Appellant

Appeal from District Court of Santa Fe County.

The motion of said appellant for a rehearing of this cause having been submitted to the court and taken under advisement thereby, upon a former day of the present term, the court being now sufficiently advised in the premises, denies said motion: It is therefore ordered by the court that said motion be, and the same hereby is denied.

H30

Tom Mills, Appellant
vs.
William Williams, et al. Appellees

Appeal from District Court of Grant County.

This cause coming on for hearing upon the transcript of record, assignments of error, and briefs of counsel, filed herein, is argued by counsel and submitted to the court, and the court not desiring sufficiently advised in the premises, takes the same under advisement.

Whereas, heretofore, to wit, at the regular term of the district court of the 5th judicial district of the Territory of New Mexico, within and for the county of Eddy, and in the case of E. A. Slaughter, Plaintiff, vs. The Town of Eddy, Defendant, the said plaintiff filed his complaint in said court, and thereafter, to the February term, A. D. 1891, of said court the said plaintiff filed his amended complaint, in which he charged that the defendant was a municipal corporation duly incorporated under the laws of the Territory of New Mexico, and that on the 5th day of March, A. D. 1890, the said plaintiff was employed by the said defendant to do certain work and labor for the said defendant, and that the said defendant agreed to pay the said plaintiff for said work and labor the sum of two hundred and

A. D. 159

county of San Miguel whence this cause came into this court, with direct to grant a new trial of this cause, and to proceed in accordance with the opinion of this court herein.

1479

Robin D. McVeden, appellant
vs.
Lorenzo Trujillo, respondent

Appeal from District Court of San Miguel County.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision, reversing and remanding this cause for reasons stated in the opinion of the court on file: It is therefore considered by this court that this cause be, and the same hereby is reversed and remanded to the District Court of the County of San Miguel whence it came with directions to take further action not inconsistent with the views expressed in the opinion of this court, and that appellant recover of appellee his costs in this behalf expended, to be taxed, and that he have execution therefor.

1476

Lorenzo Candelaria, Jr. in Error.
vs.
Atchison Topeka & Santa Fe Railroad Company, Deft. in Error

Error to District Court of Bernalillo County.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces the decision by Associate Justice McFie, Chief Justice O'Brien and Associate Justices Seda and Freeman concurring, affirming the judgment of this court below, for reasons set forth in the opinion of the court on file: It is therefore considered and adjudged by the court that the judgment of the District court of the County of San Miguel whence this cause came into this court, be, and the same is hereby affirmed; and it is further considered by the court that defendant in error recover of said plaintiff in error the costs in this behalf expended as well in the court below as in this court, to be taxed, and that it have execution therefor: and it appearing to the court that Rafael Candelaria, Jose Rafael Candelaria and Bernard F. Rodey are sureties upon the bond for costs herein, it is considered and adjudged by the court that the said Atchison Topeka & Santa Fe Railroad Company recover its costs of this behalf expended, as well in the court below as in this court, of the said Rafael Candelaria, Jose Rafael Candelaria and Bernard F. Rodey, and that execution issue therefor.

1477

The Board of Education of the Town of East Las Vegas.
vs.
Juan Trujillo, et al.

Appeal from District Court of San Miguel County.

This cause having been argued by counsel, and submitted to

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Minutes Third Day, Monday, January 11th 1892

Court resumed pursuant to adjournment.

Present, Hon. Wilbur Fiske, Judge. Present, Att'y.

Charles H. Silsbee, Plff. in Error ... Error to District Court
vs. of Santa Fe County.
Thomas Downing, Deft. in Error.

Now comes the said defendant in error by its solicitor E.L. Bartlett, Esq., and moves the Court, for reasons set forth in the motion and accompanying affidavit on file, to tax the costs herein against said plaintiff in error, and said motion being argued by counsel, it is ordered by said plaintiff in error as for the defendant in error is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

[illegible] Court of the Territory of [illegible] to the Court with the [illegible] Right of [illegible] William H. Waldron late [illegible] the Court; [illegible] thereupon ar[illegible] Bartlett, Esq. for defendant in error and Frank[illegible] for plaintiff in error are submitted. Whereupon the Court [illegible] the [illegible] of the Court [illegible] the [illegible] of the decision.

[illegible] this cause coming on to be heard [illegible]

Sixty Fourth Day, January 5th, 1892.

Court met pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

The committee of the Bar appointed upon yesterday to draw resolutions expressive of the feelings of the Court and Bar over the death of William D. Hazeldine, late a member of the Bar of this Court, now presents to the Court through E. L. Smith, Esquire, their report and resolutions and the Court having duly considered the same and duly advised in the premises: Justice of this Court, It is ordered by the Court that a duly certified copy of said resolutions be forwarded by the Clerk of this Court to the widow of the deceased, and that the said resolutions be spread upon the record, which is accordingly done in the words and figures following to wit:

To the Honorable Supreme Court of the Territory of New Mexico:-

The undersigned, a committee appointed by your Honorable body to present suitable resolutions on the death of our brother Hon. Wm D. Hazeldine of Albuquerque, have performed that duty, and beg leave to submit the following:-

Whereas, the Court and the members of the Bar have learned with profound sorrow of the sudden and untimely death of Hon. William D. Hazeldine in the prime of his manhood and usefulness on the morning of the 2nd of January A.D. 1892, at his home in Albuquerque;

Be it resolved by this Court that in the death of Judge Hazeldine this Court has lost one of its ablest advisers and friends, the Bar of the Territory an earnest, able and honest lawyer, the Territory a warm and persistent advocate, and his family a loving husband and father.

That while we mourn his loss to the Bench and Bar of New Mexico, and extend our deepest sympathy to the family of the deceased in their affliction, it is a consolation to us and to them to know that he so lived that the world has been the better for it, and death has no terrors for him.

Resolved, that these resolutions be spread upon the

words of this court that a copy be furnished to the wife of the deceased, and out of respect to the memory of the deceased, this Court do now adjourn.

Edward L. Bartlett
Thomas B. Catron
F. Downs.
Committee.

It is ordered that the Court do now adjourn until to-morrow morning at ten o'clock.

Twenty Fifth Day January 6th 1892.

Court meets pursuant to adjournment

Present as upon yesterday.

The record of yesterdays proceedings is read and approved.

409. Charles M. Wildensteve Plff in Error vs New Mexico Mining Company, et al Defts in Error } Error to District Court of Santa Fe County.

Comes now Charles M. Wildensteve the plaintiff in error by his counsel, and files his application praying for an appeal from the decree and decision rendered given in this cause at the present term of this Court to the Supreme Court of the United States and the Court being duly advised in the premises grants the prayer of such application and allows such appeal and upon the further motion of such plaintiff in error it is ordered by the Court that upon the taking of such appeal said plaintiff in error shall make and execute his bond in the penal sum of one thousand dollars payable to the defendant in error and conditioned as required by law and the rules of the Supreme Court of the U

States and with surety to be approved by the Clerk of this Court.

The said plaintiff in error also presents and files affidavit showing that the matter in dispute in this cause exceeds the sum of five thousand dollars exclusive of costs.

And this cause now in accordance with the provisions of the Statutes of the United States, makes and certifies a statement of the facts found to be proven and established by the evidence and record in said cause which statement shall be certified to the Supreme Court of the United States as a part of the record instead of the evidence at large such statement at this time made and certified to shall take the place of and be in lieu of what purports to be a statement of facts filed in this cause with the Clerk of this Court on the 21st day of August 1891, which latter statement shall be omitted from the record of this cause and shall not be considered a part of the same.

No. 435

Wilson Waddingham et al Plffs in Error
vs
Frances Kucera et al. Defts in Error

} Error to District Court of San Miguel County.

This cause having been submitted to and taken under consideration by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Lee, Associate Justices Bowman, McBride & Deeds concurring, reversing the decision of the Court below and remanding this cause to said Court with instructions to proceed in accordance with the opinion of this Court on file; It is therefore considered and adjudged by the Court that the decision of the District Court for the County of San Miguel whereon this cause came into this Court be and the same is hereby reversed, and this cause remanded to said District Court with instructions to refer the cause to a master, to take proof and report to the Court what portions of the lands within the exteriors boundaries of the Antonio Ortiz Grant were in the actual possession of the Defendants and their associates and were actually possessed, cultivated and occupied by them prior to the seventh day of February 1888 and what proportions of the waters of the Gallinas river had been appropriated by the Defendants and their associates for the purpose of irrigating the said lands and for their domestic purposes, that the Defendants and their associates upon the incoming

of such report should be enjoined and restrained from
up any more land or appropriating any more water for
purposes of irrigating until such time as they had in a
proper proceeding attached and overcome the complainants
title and that they be enjoined and restrained from con-
structing new dams and new ditches for the purpose of irrig-
ating the land as possessed by them prior to the 4th
day of February, 1888, but that they be not restrained from
maintaining old dams and old ditches for that purpose.
It is further considered and adjudged by the Court that the
said plaintiffs in error do have and recover of the said
defendants in error their costs in this behalf expended as well
in the Court below as in this Court, to be taxed, and that
execution issue therefor.

Eva Daly Appellee
vs.
Herman Bernstein appellant

} Appeal from District Court of Bernalillo County.

This cause having been submitted to and taken un-
der advisement by the Court upon a former day of the pres-
ent term, the Court being now sufficiently advised in the
premises, announces its decision by associate justice Deedas,
Chief justice O'Brien, and associate justices Freeman and McFie
concurring. affirming the judgment of the Court below; for
reasons stated in the opinion of the Court on file: It is
therefore considered and adjudged by the Court that the
judgment of the District Court in and for the County
of Bernalillo, whence this cause came into this Court, be
and the same hereby is affirmed, and that in accordance
therewith, the said Eva Daly do have and recover of the
said Herman Bernstein the sum of Fourteen hundred
and Seventy one dollars and forty three cents, with interest
thereon at the rate of six per cent per annum from the
4th day of June 1890, together with her costs in this be-
half expended, as well in the Court below as in this
Court, to be taxed, and that she have execution therefor;
And it appearing to the Court that Charles H. Lewis and
Otto Berger are sureties upon the supersedeas bond of the
said Herman Bernstein, It is therefore further considered
and adjudged by the Court that the said Eva Daly do
have and recover of the said Charles H. Lewis and Otto Berger
the sum of Fourteen hundred and Seventy one dollars and forty
three cents, the amount of her judgments affirmed as afore-
said, with interest thereon from the fourth day of June
1890 at the rate of six percent per annum. together with

her costs in this behalf expended, as well in the Court below as in this Court to be taxed, and that execution issue.

August Hirschman, Appellee, } Appeal from the District
vs } Court of Santa Fe County.
Isaac N. Laughlin, Appellant }

This cause having been submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Chief Justice O'Brien. Associate Justices Freeman, McBride and Seeds concurring, reversing the judgment of the Court below, and remanding this cause to the Court below with directions to grant a new trial thereof; It is therefore considered and adjudged by the Court that the judgment of the District Court of the County of Santa Fe where this cause came into Court be and the same is hereby reversed, and that this cause be and the same is hereby remanded to said District Court with directions to grant a new trial thereof; It is further considered and adjudged by the Court that the said Isaac N. Laughlin do have and recover of the said August Hirschman his costs in this behalf expended, as well in the Court below as in this Court to be taxed, and that execution be issued therefor.

The Texican Manufacturing Company, Appellant } Appeal from the District
vs } Court of Bernalillo County.
Isaac N. Hardock, Appellee }

This cause having been submitted to and taken under advisement by this Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Chief Justice O'Brien, associate Justices Freeman, McBride and Seeds concurring, reversing the judgment of the Court below and remanding this cause to said Court with directions to grant a new trial therein and to proceed in accordance with the opinion of this Court on file; It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Bernalillo where this cause came into Court, be and the same is hereby reversed and that this cause be and the same is hereby remanded to said District Court with directions to grant a new trial thereof and to further proceed in accordance with the opinion of this Court herein; It is further considered and adjudged that the said Execution

Manufacturing Company recover of the said Jesse M Steele its costs in this behalf expended as well in the Court below in this Court to be taxed and that it have execution ther

Henry Brant Plff in Error
vs
Pedro Y. Jaramillo Deft in Error
} Error to District Court of Santa Fe County.

#65

This cause having been submitted to and taken under advisement by this Court upon a former day of the present term the Court being now sufficiently advised in the premises announce its decision by Associate Justice Lee, Chief Justice O'Brien and associate justices Freeman and McFie concurring, affirming the judgment of the Court below for reasons stated in the opinion on file; It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Santa Fe whence this cause came into this Court be and the same hereby is affirmed and that in accordance therewith the said Pedro Y. Jaramillo recover of Error from the said Henry Brant the possession of the following described lands and real estate situate and being in the County of Rio Arriba, and Territory of New Mexico to wit:- That certain piece or parcel of land described as a portion of the North half of the North west Quarter of Section three of Township twenty four, north of range seven east according to the public land surveys of the United States containing about six acres, and bounded by other lands of the plaintiff: and that said plaintiff have a writ of possession therefor; and further that he recover from the said plaintiff in error his costs in this behalf expended as well in the Court below as in this Court to be taxed and that he have execution therefor; and it appearing to the Court that Jose Vicente Cordoba and Donaciano Gallegos are sureties upon the supersedeas bonds of said plaintiff in error, It is further considered and adjudged by the Court that the said Pedro Y Jaramillo recover of the said Jose Vicente Cordoba and Donaciano Gallegos his costs in this behalf expended as well in the Court below as in this Court to be taxed and that he have execution therefor.

Whereas it appears there are two publications of volume three of the Supreme Court Reports of New Mexico, one reported by Charles A. Wildensteen and published by the Bancroft-Whitney Company of San Francisco California and another reported by R. M. Johnson and published by the West Publishing Company- this Court having examined both said Publicatio

Tuesday Next Day, November 6th A. D. 1894

[illegible]

[illegible]

[illegible]

460 Nathaniel Bell Appellant
vs
William Skillicorn et al appellee's
} Appeal from District Court of Grant County

This cause having been submitted to and taken under advisement by the Court upon a former day of the present Term the Court being now sufficiently advised in the premises announces its decision by Associate Justice Lee, Chief Justice O'Brien and Associate Justices Freeman and Deeds concurring reversing the judgment of the Court below and remanding this cause with directions to grant a new trial; It is therefore adjudged by the Court that the judgment of the District Court in and for the County of Grant wherein this cause came into this Court be and the same hereby is reversed and that this cause be and the same hereby is remanded to said District Court with directions to grant a new trial thereof: It is further considered and adjudged by the Court that the said Nathaniel Bell do have and recover of the said William Skillicorn and Lanson A. Snyder his costs in this behalf expended as well in the Court below as in this Court to be taxed, and that he have execution therefor.

Edward Medler Appellant
vs
476. Albuquerque Hotel and Opera House Company et al. Appellee
} Appeal from District Court of Bernalillo County.

This cause having been submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Deeds, Chief Justice O'Brien and Associate Justices Freeman and McFie concurring affirming the decree of the Court below for reasons stated in the opinion of the Court on file; It is therefore ordered adjudged and decreed by the Court that the decree of the District Court in and for the County of Bernalillo wherein this cause came in to this court be and the same is hereby affirmed and it is further ordered adjudged and decreed that the said Albuquerque Hotel and Opera House Company, Franz Huning and Frank H. Smith do have and recover of the said Edward Medler their costs in this behalf expended as well in the Court below as in this Court to be taxed and that execution issue therefor.

411 The Board of Commissioners of San Miguel County Plff in Error vs William H. Pierce Deft in Error } Error to District Court of San Miguel County.

This cause having been submitted to and taken under advisement by the Court upon a former day of the present terms the Court being now sufficiently advised in the premises announces its decision by Chief Justice O'Brien, Associate Justices Mc Fie Reed, Freeman and Lee concurring reversing the judgment of the Court below for reasons stated in the opinion of the Court on file: It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of San Miguel be and the same is hereby reversed and that the said plaintiff in error recover of the said defendant in error its costs in this behalf expended as well in the Court below as in this Court to be taxed and that it have execution therefor.

H. Graf and Company Appellee vs D. Badaracco Appellant } Appeal from District Court of Bernalillo County

Now comes the said Appellant by his attorney H. B. Childers Esq. and moves the Court for reasons stated in his motion on file to grant him a rehearing of this cause and the Court being sufficiently advised in the premises denies said motion: It is therefore ordered by the said Court that said motion be and the same hereby is denied.

409 Charles H. Gildersleeve Plff in Error vs New Mexico Mining Company et al. Defts in Error } Error to District Court of Santa Fe County

Now come the said defendants in Error by their Solicitor C. A Bartlett Esq. and move the Court for reasons stated in their motion and accompanying affidavit on file to tax the costs herein against said plaintiff in Error And the Court being sufficiently advised in the premises: It is ordered by the Court that the Clerk of this Court be and he hereby is directed to tax the costs herein for the printing of the transcript at the rate of fifteen cents for folio in accordance with the statute in such case made and provided.

Whereas A. D. Clancy Clerk of this Court has rendered an account of his fees for services performed at and previous to the present term of Court with the items thereof, and it

presence of Eugene A. Diste U. S. Attorney, has proven, on oath, to the satisfaction of the Court that the services there charged for have been actually and necessarily performed as therein stated, and also that on the days for which per diem is charged, business was actually transacted in Court or that Court was actually opened for business; and whereas said Charges appear to be just and according to law, it is ordred that said account, amounting to thirty four dollars and forty cents be and the same is thereby approved.

It is ordered by the Court that the following allowances to be paid by the United States be and the same hereby are made to bailiffs of this Court:

C. C. Eberhardt	3 days	$ 6.00
Wm. O'Brien	3 days	6.00
Jose Ortiz	3 days	6.00

It is ordered by the Court that the following allowance to be paid by the Territory of New Mexico be and the same hereby is made:

H. D. Planey	Clerk 3 days:	12.00

On motion of T. B. Catron Esq. it is ordred by the Court that Charles A Spiess Esq. of the First Judicial District Court of this Territory be and he hereby is admitted to practice as an attorney Solicitor and Counselor of this Court, and he thereupon appear in Open Court and takes the Official oath prescribed by the rules of this Court.

It is ordered by the Court that all causes, motions, rules, and other proceedings not otherwise disposed of be and the same hereby are continued until the next term of this Court.

It is ordered that Court do now adjourn Sine-die

James O'Brien
Chief Justice.

First Day. Monday, July 25. 1892.

At a regular term of the Supreme Court of the Territory of New Mexico, begun and held at Santa Fe, New Mexico the seat of Government of said Territory, on the last Monday of July, A. D. 1892, the same being Monday, July 25. 1892.

Present:
Honorable James O'Brien, Chief Justice.
Honorable Edward C. Reed, Associate Justice.
Honorable William D. Lee, Associate Justice.
Honorable John R. McFie, Associate Justice.
Honorable A. A. Freeman, Associate Justice.
Eugene A. Fiske, United States Attorney.
Cruz Romero, United States Marshal.
H. F. Blaney, Clerk.

It is ordered by the Court that Jas. O'Brien, Fernando Romero, Jose D. Sena, and J. B. Moon, be and they hereby are appointed Bailiffs to the Court, and they thereupon appear in open Court and are duly sworn as such.

On motion of T. B. Laughlin Esq., It is ordered by the Court that James H. Fitch, Esq. a member of the Bar of the Fifth Judicial District Court of this Territory, be and he hereby is admitted to practice as an attorney, Solicitor and Counsellor of this Court and he thereupon appears in open Court and takes the offical oath prescribed by the rules of this Court.

1498 Pedro Sandoval, Plff. in Error
vs. } Error to San Miguel County.
Antonio D. Conrad, Deft. in Error

Now comes the said Plaintiff in Error by his attorneys Reynolds, Easton & Catron and says that they will not further prosecute their said writ of error, but dismiss the same; It is therefore considered and adjudged by the Court that the said Plaintiff in error as to said writ go hence without day and recover of Plaintiff in error their costs in this behalf expended, as well in the Court below as in this Court, to be taxed, and that they have execution therefor.

First Day. Monday July 25 [illegible]

298 Lynch Brothers, Appellees
vs.
Grayson Company, Appellants
Appeal from Doña A. County

On motion of T. D. Catron Eso, attorney for appellants which is agreed to by S. B. Newcomb Eso, attorney for Appellees. It is ordered by the Court that this cause be, and the same hereby is set for hearing upon August 8. 1892.

420 Edward D. Ballard, Deft. in Error
vs.
Lorenzo Lopez, Assignee, Deft. in Error
Error to San Miguel County.

On motion of Frank Springer, Eso, attorney for plaintiff in Error, It is ordered by the Court that this cause be, and the same hereby is set for hearing upon August 17. 1892.

155 Marshall Field, & Co. Etal, Plffs in Error
vs.
M. Romero, & Co. et al. Defts. in Error
Error to San Miguel County.

On motion of T. D. Catron Eso, attorney for plaintiffs in Error, It is ordered by the Court that this cause be, and the same hereby is set for hearing upon August 11. 1892.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Third Day, Tuesday, June 16. A. D. 1891.

Court met pursuant to adjournment.

Present as heretofore.

The State of Texas, Plaintiff in Error,

vs.

George Bain, et al, Defts. in Error

Error to Socorro County.

On motion of the Plaintiff in error by his counsel M. G. Childers Esq., it is ordered by the Court that said Plaintiff in error do, and he hereby is granted leave to file his assignment of errors and briefs herein on or before the second Monday of the present term.

505

Atchison, Topeka and Santa Fe Railroad Company, Plff. in Error
vs
George N. McCarrel, Deft. in Error

Error to Grant County

Now comes the said Plaintiff in error by H. L. Waldo Esq. its counsel, and the law of the court says that it will not further prosecute its said writ of error, but dismisses the same; It is therefore considered and adjudged by the court that the said writ of error be, and the same hereby is dismissed, and that said defendant in error do to the same go hence without day.

516.

Edward Y. Berry, etal, Appellees,
vs
Henry Hull, etal, Appellants

Appeal from San Juan County

On motion of said appellants by their Solicitor N. B. Laughlin Esq. It is ordered by the court that said appellants have until August 1st 1892, in which to file their brief herein.

It is ordered that court do now adjourn until tomorrow morning at nine o'clock.

[illegible] August 1st 1892.

[illegible] adjournment

[illegible] as upon yesterday.

The record of yesterday's proceedings is read and approved.

1176

Edward Spiess, Appellant
vs
Quinquenia Hotel and Opera House Company, et al.

Appeal from Bernalillo County.

Now comes the said appellant by his Solicitor N. M. Whiteman Esq., and moves the court, for reasons set forth in his affidavit on file to grant him an appeal from the judgment and decree of this court, to the Supreme Court of the United States, and the court being fully advised in the premises, grants said motion; It is therefore ordered by the court that said motion be, and the same hereby is granted upon said appellant filing the bond hereinafter [illegible]

It is further ordered by the Court that said Plaintiff recover of the said Defendants costs to the Plaintiff in the sum of Five Hundred dollars to the end of the Supreme Court of the United States with two sufficient sureties to be approved by this Court, conditioned as the law directs. It is further ordered that said Defendants be allowed thirty days from this date in which to file their bill of exceptions herein.

503 Manuel Sutton, Plff in Error
vs.
Victor M. Ireland
Def in Error

In Supreme Court of the Territory of New Mexico

On motion of E. A. Fiske, Esq. Solicitor herein, it is ordered by the Court that the cause be, and the same hereby is set for hearing upon August 1st, 1892.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Fourth Day, Thursday, July 28, 1892.

Court met pursuant to adjournment

Present, as upon yesterday.

The record of yesterday proceedings is read and approved.

On motion of F. A. Fiske, Esq. It is ordered by this Court that Lucien B. Smith Esq. a member of the bar of the First Judicial District of this Territory, be and he hereby is admitted to practice as an attorney solicitor and counselor of this court, and he thereupon appears in open court, and takes the usual oath prescribed by the rules of this court.

500 Nicanor Chavez, et al, Plffs. in Error
vs.
Cantara Chavez de Sanchez
Error to Valencia County

On motion of said plaintiffs in error, by their attorney F. A. Fiske, Esq. It is ordered by the Court that this cause be and the same hereby is set for hearing on August 10th 1892.

Fourth Day. Thursday, July 28th C.A.

473

Maximiano Romero, Plff. in Error
vs
Antonio Luma, Deft. in Error

Error to District Court of Taos County

This cause having been argued by counsel, and submitted to, and taken under advisement by the court at a former term of this court, the court being now sufficiently advised in the premises, announces its decision by Associate Justice McFie, Associate Justices Lee and Freeman concurring, and Chief Justice O'Brien dissenting, reversing the judgment of the court below, for reasons stated in the opinion of the court on file, and remanding this cause to the court below, with direction to grant a new trial thereof, and to allow the writ of replevin herein to be amended; It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Taos, whence this cause came into this court, be and the same hereby is reversed, and this cause remanded to said court, with direction to grant a new trial thereof, and to allow said plaintiff in error to amend the affidavit in replevin therein, and to further proceed in accordance with law; It is further considered by the court that the said Maximiano Romero do have and recover of said Antonio Luma, his costs in connection with the suing out of said writ of error, as well in this court as in the court below, and that he have execution therefor.

517

John N. Terry, et al, Appellees,
vs
J. S. Martin, Appellant

Appeal from Socorro County

Now come the said appellees by their solicitor Hon. Fitch, and move the court, for reasons stated in the motion on file, to dismiss the appeal of said appellant and said motion being argued by counsel as well for said appellant as for said appellees, is taken under advisement by the court.

1495

August Kirschner, etal, Plffs. in Error
vs
J. M. C. Chavez, etal, Defts. in Error

Error to Santa Fe County

1496

August Kirschner, etal, Plffs. in Error,
vs
Isaac Freman, Deft. in Error

Error to Santa Fe County

Now come the defendants in error in the foregoing two causes, and move the court for reasons stated in their motions on file to dismiss said writs of error, and affirm the judgments of the court below, and said motions being argued by N. B. Laughlin Esq. for said defendants in error, and by N. B. Sloan Esq. for

Fourth Day. Thursday, July 28th A. D. 1892.

Plaintiffs in error, the Court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Fifth Day. Friday, July 29. 1892.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterday's proceedings is read and approved

H742 — The Scottish Mortgage and Land Investment Company of New Mexico (Limited). Plff. in Error, vs. William H. McBroom, Deft. in Error — Error to San Miguel County.

This cause coming on to be heard upon the transcript of record, assignments of error, and briefs of counsel filed herein, is argued by Messrs. Reed and Pirtle for Plaintiff in error, and by Frank Springer Esq. for defendant in error and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

H95 — August Kirschner and Eugenio Yrisarri, Plffs. in Error, vs. J. M. C. Chavez and Francisco C. Chavez, Defts. in Error — Error to Santa Fe County.

This cause having been argued by counsel and submitted to, and taken under advisement by the Court upon a former day of the present term, upon the motion of said defendants in error to dismiss said writ of error and affirm the judgment of the Court below, the Court being now fully advised in the premises, grants said motion; It is therefore considered and adjudged by the Court that the writ of error herein, &c, and the same hereby is dismissed, and the judgment of the Court below, in this cause &c, and the same hereby is

affirmed; and in accordance with the judgement of the Dist. ct. in and for the County of Santa Fe whence this cause came into this court. It is further considered and adjudged by the court the said F.M.D. Chaves and Francisco C. Chavez do have and recover the said August Kirschner and Eugenio Yrisarri the sum of Six hundred and six dollars and twenty nine cents, with interest thereon at the rate of twelve per cent per annum from the 25th day of June, 1891 together with their costs in this behalf expended, as well in the court below, as in this court, to be taxed, and that they have execution therefor.

496 August Kirschner and Eugenio Yrisarri, Defts. in Error, vs. Isadon Ferran, Deft. in Error. Error to Santa Fe County.

This cause having been argued by counsel, and submitted to and taken under advisement by the court upon a former day of the present term, upon the motion of said defendants in Error to dismiss said writ of error and affirm the judgment of the court below, the court being now fully advised in the premises, grants said motion; It is therefore considered and adjudged by the court, that the writ of error herein be, and the same hereby is dismissed, and the judgment of the court below in this cause be, and the same hereby is affirmed; and, in accordance with the judgment of the District Court in and for the County of Santa Fe whence this cause came into this court, it is further considered and adjudged by the court that the said Isadon Ferran do have and recover of the said August Kirschner and Eugenio Yrisarri the sum of Five Hundred and fifty nine dollars and fifty nine cents, with interest thereon at the rate of twelve per cent per annum from the 25th day of June, 1891, together with his costs in this behalf expended, as well in the court below, as in this court, to be taxed, and that he have execution therefor.

519 The Territory of New Mexico, appellee, vs. Jesse R. Hicks, appellant. Appeal from Doña Ana County.

Now comes E.L. Bartlett, Solicitor General, and moves the court, for reasons stated in his motion on file, for leave to docket this cause, and have the judgment of the lower court affirmed, and the court being sufficiently advised in the premises, It is ordered that this cause be docketed upon the docket of this court, and that the motion of said appellee to affirm the judgment of the court below be and the same hereby is denied.

517

John N. Gray, et al, Appellees,
vs
S. L. Austin, Appellant

Appeal from Presidio County.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court upon a former day of the present term, upon the motion of said appellees to dismiss the appeal herein, and affirm the decree of the court below, the court being now fully advised in the premises, finds said motion well is therefore considered and adjudged by the court that the appeal herein be, and the same hereby is dismissed, and the decree of the court below be, and the same hereby is affirmed, in accordance with the decree of the District court within and for the County of Presidio, when this cause came into the court, it is further considered, adjudged and decreed that the said appellant S. L. Austin within ten days from the date of this decree do pay to the Register of the Fifth Judicial District court of the District of New Mexico in and for the County of Socorro, the sum of six hundred and fifty five dollars and thirty three cents with interest thereon from the 28th day of January, 1890 at the rate of six per cent per annum, together with all costs in this behalf expended, as well in the court below as in this court, to be taxed, and that in default of such payment, execution do issue therefor; and it appearing to the court that N. E. Neely, Samuel C. Mack, J. S. Griffin and A. L. Hoffer are sureties upon the appeal bond of said appellant, It is further ordered, adjudged and decreed by the court that the said appellees do have and recover of the said N. E. Neely, Samuel C. Mack, J. S. Griffin and A. L. Hoffer, in case of the failure of said appellant to pay said sum of money to said Register, the sum of six hundred and fifty five dollars and thirty three cents with interest thereon from the 28th day of January 1890, at the rate of six per cent per annum, together with all costs in this behalf expended, as well in the court below as in this court, to be taxed, and that execution issue therefor.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Sixth Day. Saturday, July 30. 1892.

Court meto Pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

4175 William Garland, Warnshee, Plff. in Error, vs Sterling Brothers, Defr. in Error } Error to Socorro County

4187 George R. Swallow, Plff. in Error vs George Bain, Etal } Error to Socorro County.

By agreement of the parties to the foregoing two causes, It is ordered by the court that said causes be, and the same hereby are set for hearing upon August 3. 1892.

It is ordered that Court do now adjourn until Monday morning at ten o'clock.

Seventh Day. Monday, August 1. 1892.

Court meto Pursuant to adjournment.

Present, as upon Saturday

The record of Saturdays proceedings is read and approved.

4181 United States of America, appellee vs Elias Vigil, Appellant } Appeal From Second Judicial District Court.

By agreement of said parties, by their respective attorneys it is ordered by the Court that this cause be, and the same hereby is continued until the next term of this court, and that the said appellant be, and he hereby is given until the first day of said next term in which to file his brief herein.

280

The Mexico Lumber Association, Appellee
vs
Albert G. Fuller, et al, Appellants

Appeal from San Miguel County

Now come the said appellants in the above entitled cause and say that they will not further prosecute their appeal herein, but that the same be dismissed, and the said appellee do have judgment against the said appellants for costs in this behalf to be taxed and that it have execution therefor.

508

Frederick Eckman, Jr. in Error,
vs
Courtney & Dow Howes, Jr. in Error

San Miguel County

This cause coming on for hearing upon the transcript of record, assignment of error, and brief of plaintiff in error, is argued by Thomas Delgado Esquire, for plaintiff in error, and by F. E. Gaskill and T. C. Hart, Esquires, for defendant in error, and submitted to the court and the court not being sufficiently advised in the premises, takes the same under advisement.

479

Henry Rauch, Appellant.
vs
Henry Dold, Appellee

Appeal from San Miguel County.

This cause coming on for hearing upon the transcript of record, assignment of errors, and brief of counsel filed herein, is argued by J. D. N. Snider, Esquire for appellant, and by A. A. Jones Esquire for appellee, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

On motion of Miguel Delgado, Esquire, it is ordered by the court that E. N. Cutler Esq. a member of the Bar of the Fourth Judicial District Court of this Territory, be and he hereby is admitted to practice as an attorney, solicitor and counselor of this court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this court.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Eighth Day. Tuesday August 2nd, 1892.

Court meets pursuant to adjournment

Present as upon yesterday.

The record of yesterdays proceedings is read and approved.

519 The Territory of New Mexico vs Jesse R. Hicks, appellant — appeal from Dona Ana County

It is ordered by the Court that this cause be, and the same hereby is set for hearing upon August 17, 1892.

521 Territory of New Mexico vs William Davis, appellant — appeal from Grant County

522 Territory of New Mexico vs John A. Murray, appellant — appeal from Grant County.

Now comes E. L. Bartlett Esquire, Solicitor General, and moves the court for reasons stated in his motion on file, to docket the two foregoing causes, and have the judgments of the lower court affirmed, and the Court being sufficiently advised in the premises; It is ordered that said two causes be placed upon the docket of this court, and that the motion of said appellee to affirm the judgments of the court below be, and the same hereby is denied; and It is further ordered by the court that that this order be, and the same hereby is entered nunc pro tunc, as of July 29, 1892; and thereupon said two causes are submitted to the court, without argument.

It is ordered that the Court do now adjourn until tomorrow morning at ten o'clock.

Sixth Day, Wednesday, August 3, 1892.

Court met pursuant to adjournment.

Present as upon yesterday.

The jurors in attendance upon this court

[illegible]

[illegible]

[illegible]

Tenth Day, Thursday, August 4, 1892.

Court meets pursuant to adjournment

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

513 Territory of New Mexico, appellant vs. Pedro Garcia, appellee — Appeal From Doña Ana County.

515 Territory of New Mexico, appellee vs. Petronilo Chacon, appellant — appeal from Grant County.

By agreement of said parties by their respective attorneys, It is ordered by the Court that the foregoing two causes be, and the same hereby are continued until the next term of this court.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Eleventh Day, Friday, August 5, 1892.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

Whereas Trinidad Romero, United States Marshal has rendered to this court an account of the fees and expenses of himself and deputies in transporting two United States prisoners under the direction of the Attorney General from Deming N.M. to the Jail at San Francisco Cal., with the vouchers and items thereof, and in presence of Eugene A. Fiske, United States attorney, has proved, on oath, to the satisfaction of the Court, that the services and expenses therein charged

were actually and necessarily performed and incurred as therein stated; and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to Three hundred and thirteen dollars and three cents be and the same is hereby approved.

Whereas Trinidad Romero, United States Marshal has rendered to this court an account of his fees and expenses from the 1st day of April 1892 to the 30th day of June 1892 with the vouchers and items thereof, and in presence of Eugene A. Fiske United States Attorney, has proved, on oath to the satisfaction of the court that the services and travel charged therein were actually and necessarily performed, and that the expenses were necessarily incurred; and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to thirty eight hundred and fifty nine dollars and fifty four cents be and the same is hereby approved.

Whereas Trinidad Romero, United States Marshal has presented to this court an account of expenses endeavoring to arrest, subsistence of prisoners and actual expenses in lieu of mileage, rendered by himself and deputies a deputy U.S. Marshal for said District from the 1st day of January 1892, to the 30th day of June 1892, with the vouchers and items thereof, and in the presence of Eugene A. Fiske, United States attorney, has proved, on oath, to the satisfaction of the court, that the expenses charged were actually and necessarily incurred. And whereas said charges appear to be just and according to law, It is ordered that the said account amounting to Three Thousand two hundred and eighty seven dollars and forty four cents be and the same is hereby approved.

455 Marshall Field & Co., etal. Plffs. in Error, vs. M. Romero & Co., etal. Defts. in Error. — Error to San Miguel County.

By agreement of said parties by their respective attorneys. It is ordered by the court that this cause be, and the same hereby is continued until the next term of this court.

522 The Territory of New Mexico, appellee vs. John A. Murray, appellant — Appeal from Grant County.

This cause having been submitted to and taken under advisement by the court upon a former day of the present term, upon the transcript of record herein, the Court hei

now sufficiently advised in the premises announces its decision Associate Justice Lee, Chief Justice O'Brien and Associate Justices Sul and Freeman concurring, affirming the judgment of the court belo for reasons stated in the opinion of the court ~~below~~ on file; It is therefore considered and adjudged by the court that in accordance with the judgment of the District Court in and for the County of Grant whence this cause came into this court, the said appellant John A. Murray be remanded into the custody of the Sheriff of Grant County to be by him safely kept until such time as he can conveniently convey him to Santa Fe, New Mexico there to deliver him to the Superintendent of the Territorial Penitentiary, therein to be confined at hard labor during life.

521 The Territory of New Mexico, appellee vs. William Davis, appellant — Appeal from Grant County.

This cause having been submitted to and taken under advisement by the court upon a former day of the present term upon the transcript of record therein, the court being now sufficiently advised in the premises announces its decision by Associate Justice Lee, Chief Justice O'Brien and Associate Justices Sul and Freeman concurring, affirming the judgment of the court below for reasons stated in the opinion of the court on file; It is therefore considered and adjudged by the court that in accordance with the judgment of the District Court in and for the County of Grant whence this cause came into this court, the said appellant William Davis be remanded into the custody of the Sheriff of Grant County to be by him safely kept until such time as he can conveniently convey him the said William Davis to Santa Fe New Mexico, there to deliver him to the Superintendent of the Territorial Penitentiary, therein to be confined at hard labor for the period of three years from and after the delivery of the said William Davis to the said Superintendent of the Territorial Penitentiary, and that a warrant of commitment issue against him.

1499 Miguel Salazar, Plff. in Error, vs. E. N. Ronquillo, Defr. in Error — Error to San Miguel County.

Now comes the said defendant in error by E. N. Prichard his attorney and moves the court to dismiss the writ of error thereon for want of prosecution, and the court being fully advised in the premises, grants said motion: It is therefore considered by the court that said writ of error be, and the same hereby is dismissed and that said defendant in error go hence without day, and recover

Seventh Day, Friday, August 5th A. D. 1892.

of said plaintiff in Error this costs in this behalf expended to be taxed, and that execution issue therefor.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Eighth Day, Saturday, August 6. 1892.

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterdays proceedings is read and approved.

It is ordered that Court do now adjourn until next Monday morning at ten o'clock.

Thirtieth Day, Monday, August 8. 1892.

Court meets pursuant to adjournment.

Present, as upon Saturday, except Hon. A. A. Freeman, Associate Justice.

The record of Saturday's proceedings is read and approved.

298 Lynch Brothers, appellee.
vs
Grayson & Company, appellants
By agreement of said parties by their respective

Appeal from Dona Ana County.

attorneys. It is ordered by the Court that this cause be, and
same hereby is set for hearing upon August 12. 1892.

501 Sonya S. de Hoenderfield, appellant, vs. Appeal from San Miguel County
Will B. Field, Admr. etal, appellees

By agreement of P.L. Vanderveer of counsel for appellees and Charles H. Gildersleeve of Counsel for appellant It is ordered by the Court that this cause be, and the same hereby is set for hearing upon August 13. 1892, with leave to John H. Knaebel Esq. of counsel for appellant, to file a supplemental brief herein

502 Antonio A. Senecal, etal, Defts. in Error, vs. Error to San Miguel County.
James Bolton, Deft. in Error

By agreement of said parties by their respective attorneys, in accordance with their stipulation on file, this cause is now Submitted to the Court without argument upon the transcript of record, and briefs of counsel now on file, and to be filed by defendant in error on or before August 15. 1892.

517 John N. Terry, et al, appellees vs. Appeal from Socorro County
T. D. Martin, appellant

Now comes the said appellant by T.B. Catron Esq. his attorney, and moves the Court, for reasons set forth in his motion and accompanying affidavit on file, to set aside the judgment of this court heretofore rendered in this cause affirming the decree of the Court below, and to grant him leave to file his assignment of errors herein, and said motion being argued by counsel as now by said appellant by T.B. Catron Esq. as by James G. Fitch Esq. Counsel for appellees is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered, that Court do now adjourn until tomorrow morning at ten o'clock.

Fourth Day, Tuesday, August 9, 1892.

Court met pursuant to adjournment.

Present, the Hon. Wilson Waters.

Chief Justice presiding.

No. 502 — Territory of New Mexico, Plaintiff in Error, vs. Error to District Court of San Miguel County. Abel Baca, Defendant in Error.

This cause coming on to be heard upon the transcript of record and briefs, and counsel for the parties hereto appearing, and the Attorney General of the Territory having submitted the cause on behalf of the plaintiff in error, and submitted to the court a motion to affirm the judgment of the court below, and counsel for the defendant in error having submitted to and taken under advisement by the court upon a former day of the present term, the court having now sufficiently advised in the premises, announce its decision by Associate Justice Seeds and Associate Justices Reed and Crumpacker dissenting, holding said motion, for reasons stated in the opinion of the court on file, to be well taken, and it is therefore considered by the court that said motion be and the same hereby is granted, and that in accordance therewith, the judgment of the court made and entered in said cause upon the 30th day of July, 1892, affirming the decree of the court below, be and the same hereby is set aside and vacated, and said defendant in error have to file its assignment of error herein; It is further ordered by the court that the cause be, and the same hereby is set down for hearing upon August 17, 1892.

No. 503 — Frederick Faltin, Plaintiff in Error, vs. Error to District Court of San Miguel County. The Territory of New Mexico, Defendant in Error.

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court having now sufficient

advised in the premises announces its decision by Associate Justice Lee, McFie and Freeman concurring, affirming the judgment of the court below for reasons stated in the opinion of court on file. It is therefore considered and adjudged by the Court that the judgment of the District Court sitting within and for the County of San Miguel in this cause, whence this cause came into this court, be and the same hereby is affirmed, and in accordance therewith, It is further considered and adjudged by the court that on Friday the nineteenth day of August, 1892, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of said day, within a special enclosure secured from public view, in the presence of a sufficient number of witnesses to attest the execution of this judgment, in the area or yard appurtenant to the common jail situate in Las Vegas in the County of San Miguel and Territory of New Mexico, the said plaintiff in error Frederick Falkner be taken by the Sheriff of said county or other duly authorized officer, and by him be hanged by the neck until he is dead; and It is further considered and adjudged by this court that a duly certified copy of this judgment, attested by the clerk of this court shall be the warrant to said sheriff of said county of San Miguel for the due execution thereof.

50[illegible]

Salvador Chavez, et al, Plaintiffs in Error,
vs.
Territory of New Mexico, Defendant in Error

Error to Valencia County.

This cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel on file herein, is argued by N. B. Field Esq. for plaintiffs in error, and by E. L. Bartlett Solicitor General and N. H. Whiteman District attorney for defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

517

John N. Terry et al, appellees
vs.
J. D. Martin, appellant

Appeal from Socorro County.

Now come said appellees by James G. Fitch Esquire, their Solicitor, and moves the court for a rule on the clerk of the District Court in and for the County of Socorro to forthwith transmit to this court such parts of the transcript of record therein as are shown by said motion to be missing from the the transcript on file in this court, and the court being sufficiently advised in the premises, grants said motion; It is therefore ordered by the court of the District court in and for the county of Socorro, upon receipt of a certified copy

of this rule together with a copy of said motion, forthwith transmit to the Court such parts of said record as are shown by said motion to have been omitted from the transcript now on file.

And it is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Fourth Day, Wednesday, August 10. 1892.

Court met pursuant to adjournment.

Present, as upon yesterday.

And now at yesterday proceedings is read & approved.

No. 265. J. Kerlin, Plff in Error, vs. Error to Decatur County.
Shirley A. Law Adms, Deft in Error

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of Counsel on file therein, is argued by W. Burkhart and W. A. Ball Esqrs. for Plaintiff in error, and by C. C. Littell Assistant Attorney General, for defendant in error, and is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

500 Lucretia Lowery Adm. Plff in Error vs. Error to Marion County.
Barbara Lowery dit Sanchez, Deft in Error

This cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of Counsel filed herein, is argued by F. N. Lowery Esq. for Plaintiff in error, and by N. B. Field Esq. for defendants in error, and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

Fifteenth Day, Wednesday, August 10th A.D.

On motion of A. B. Elliott Esquire, It is ordered that Frank Parker Esquire, an attorney of the Third Judicial District bar of this Territory be and he hereby is admitted to practice as attorney, Solicitor and counsellor of this court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this court.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Sixteenth Day, Thursday, August 11. 1892.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

207 The Territory, ex rel Charles N. Dudron, Plff. in Error. vs. L. Bradford Prince, Governor, Etal, Defts. in Error. Error to Santa Fe County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued this day by T. M. Blaney Esquire, for plaintiff in Error, and by E. L. Bartlett Esquire Solicitor General, and submitted to the Court, and the court not being fully advised in the premises, takes the same under advisement.

208 Jesus Maria Baca, Plff in Error. vs. Territory of New Mexico, Defendant in Error. Error to Taos County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by N. Mc. Read and J. H. Crist Esquires, for plaintiff in error, and E. L. Bartlett Solicitor General for defendant in error, and submitted to the Court and the court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Fourteenth Day. Friday, August 12 1892.

Court met pursuant to adjournment.

Present as upon yesterday. Also the Hon. A. A. Freeman, Associate Justice.

The record of yesterdays proceedings is read and approved.

1444

United States of America, Appellee. vs. Santa Cruz Lucero, Appellant

Appeal from Dist. and Probate Court.

On motion of said appellant by his attorney E. L. Fiske, Esquire, It is ordered by the Court that said appellant be and he hereby is allowed sixty days from this date in which to substitute the transcript of record and all other papers from which was filed at last term of this Court, and it is further ordered that this cause be and the same hereby is continued until the next term of this court.

509

Emilio Luna Plff in Error. vs. Territory of New Mexico, Deft in Error.

Error to Mora County.

This cause coming on for hearing upon the transcript of record, assignment of error and brief of counsel on file, is argued by E. A. Cleaver, Esq. for Plaintiff in Error, and by C. A. Bartlett Solicitor General for defendant in error and submitted to the Court and the Court not being sufficiently advised in the premises, takes the same under advisement.

510

Emilio Luna Plff in Error. vs. Territory of New Mexico, Deft in Error.

Error to Mora County.

This cause coming on for hearing upon the transcript of record, assignment of error and brief of counsel on file, is argued by E. A. Cleaver, Esq. for Plaintiff in Error, and by C. A. Bartlett Solicitor General for defendant in error and submitted to the Court and the Court not being sufficiently advised in the premises, takes the same under advisement.

208

Lynch Brothers, Appellees, vs. Grayson and Company, Appellants

Appeal from District Court of Doña Ana County

This cause coming on for argument upon the re-hearing granted said appellants, is argued by T. B. Catron and A. S. Elliott Esquires for appellants, and by S. B. Newcomb Esquire for appellees, and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

1195 August Kirchner &ux Eugenio Ynisarri, Plffs. in Error, vs J.M.D. Chavez and Francisco D. Chavez, Defts. in Error } Error to Fe County.

It appearing to the Court that Charles M. Conklin and H.L. Ortiz are sureties upon the supersedeas bond of said plaintiffs in error, and the judgment of the court below having been duly affirmed against said plaintiffs in error upon a former day of the present term, to wit July 29. 1892. It is now considered and adjudged by the court that the said J.M.D. Chavez and Francisco D. Chavez do have and recover of the said Charles M. Conklin and H.L. Ortiz the sum of six hundred and six dollars and twenty nine cents, the amount of the judgment so affirmed against said plaintiffs in error, with interest thereon at the rate of twelve per cent per annum from the 25th day of June 1891, together with the costs in this behalf expended to be taxed, and that execution issue therefor.

1196 August Kirchner &ux Eugenio Ynisarri, Plffs. in Error, vs Teador Ferran, Deft. in Error } Error to Santa Fe County.

It appearing to the Court that Charles M. Conklin &ux H.L. Ortiz are sureties upon the supersedeas bond of said plaintiffs in error, and the judgment of the court below having been duly affirmed against said plaintiffs in Error upon a former day of the present term, to wit, July 29th 1892, It is now considered and adjudged by the court that the said Teador Ferran do have and recover of the said Charles M. Conklin and H.L. Ortiz, the sum of two hundred and fifty nine dollars and fifty nine cents, the amount of the judgment so affirmed against said plaintiffs in Error, with interest thereon at the rate of twelve per cent per annum from the 25th day of June 1891, together with the costs in this behalf expended to be taxed, and that execution issue therefor.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Eighteenth Day, Saturday August 13th A.D. 1892.

Court met pursuant to adjournment.

Present as when last set.

Counsel as when last set.

Jury called and all answered to their names.

Argument of counsel on the pleadings in the case of Mrs. Ella Hall, Admx. etc. vs. The Southern Pacific Railroad Company, Deft. in Error, for Error to the District Court of Fresno County, and the Court announced its decision in favor of the Defendant in Error.

Court adjourned to meet on Monday morning at ten o'clock.

Seventeenth Day. Monday August 15. 1892

Court met pursuant to adjournment.

Present as when last Saturday.

Reading of Saturday's proceedings is had and approved.

No. 1171. Mrs. Ella Hall, Admx. etc. vs. The S.P.R.R. Co. Error to District Court Fresno County.

This cause having been argued by counsel, and sub-

mitted to and taken under advisement by the Court at a term of this Court, the Court being now sufficiently advised the premises announces its decision by Associate Justice Dudo r irming the judgment of the Court below for reasons stated in i opinion of the Court on file. It is therefore considered and adjudged by the Court that in accordance with the judgment of the District Court sitting within and for the County of Pinal whence this cause came into this Court the said Plaintiffs in error take nothing by their writ and that said defendant in error go hence without day and recover of said Plaintiffs in error its costs in this behalf expended, as well in the Court below as in this Court, to be taxed, and that execution issue therefor.

5114

William H. Bucher, Trustee, Appellee. vs. Moses Thompson, et al, Appellants. Appeal from Pinal County.

This cause coming on for hearing upon the transcript of record, assignment of errors and brief of counsel on file, is argued by H. L. Pickett Esq., for appellants, and by James D. Fidler Esq for Appellee, and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Sixth Day, Tuesday, August 16th A. D. 1892

Seventh Day, Tuesday, August 16, 1892.

Court met pursuant to adjournment

Present Hon. Edward Safford Judge

Present as upon yesterday

The record of yesterday's proceedings is read and approved.

Territory of New Mexico, Appellee

vs

Isaac R. Hicks, appellant

Appeal from Dona Ana County.

This cause coming on for hearing upon the transcript

519

of record, assignment of errors and briefs of counsel on file, duly A.B. Fall Esq. for appellant and C.A. Bartlett Solicitor Gen. for appellee, and submitted to the court and the court not being sufficiently advised in the premises, takes the same under advisement.

517

John H. Terry, et al, Appellees, vs J. D. Martin Appellant. Appeal from Distruct Court of Socorro County.

This cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel on file is argued by T.B. Catron Esq. for appellant and James G. Fitch Esq. for appellees and submitted to the court, and the court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Twenty-Second Day Thursday August 18. 1892.

Court meets pursuant to adjournment.

Present, as upon yesterday, and also James O'Brien, C.J.

The record of yesterdays proceedings is read and approved

1164

Territory of New Mexico, ex rel Charles B. Gildersleeve, Plaintiff in Error, vs Jose L. Orea, Sheriff etc. Defts. in Error. Error to Distruct Court of Bernalillo County.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court at a former term of this court, the court being now sufficiently advised in the premises, announces its decision by Associate Justice McFie, affirming the judgment of the court below, for reasons stated in the opinion of the court on file, Chief Justice O'Brien and associate Justices Bantz and Freeman concurring

It is therefore considered and adjudged by the court, that in accordance with the judgment of the District Court sitting within and for the County of Bernalillo, whence this cause came into this court, the said relator is not entitled to a peremptory writ of mandamus, that said defendant in error Jose L. Perea, Sheriff as aforesaid day, and peneer of said relator and plaintiff in error Charles H. Gildersleeve his costs in the behalf expended, as well in the court below as in this court, to be taxed, and that execution issue therefor.

513 Territory of New Mexico, Appellant, vs Pedro Baca, Appellee

Appeal from Doña Ana County.

On motion of said appellant by E.L. Bartlett, her Solicitor General, it is ordered by the court that the order of continuance heretofore entered in this cause upon a former day of the present term hereof and the same hereby is set aside; and thereupon, said cause is submitted to the court by said Solicitor General upon the transcript of record on file herein, and the Court not being sufficiently advised in the premises, takes the same under advisement.

504 Edwards Shaw & Amanda Shaw, Plffs. in Error, vs Territory of New Mexico, Deft. in Error

Error to Valencia County.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court during now upon a day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Mc Fie affirming the judgment of the court below for reasons stated in the opinion of the court on file. Chief Justice O'Brien and Associate Justice Bantz concurring. It is therefore considered and adjudged by the court, that ~~in accordance with~~ the judgment and sentence of the District Court in and for the County of Valencia, whence this cause came into this Court, be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said District Court with directions to carry said judgment and sentence into execution.

Twenty Second Day. Thursday, August 18th 1892

Now comes Francisco Lauriano Gomez an alien, and making application to be admitted to become a citizen of the United States and it being made to appear to the satisfaction of the Court, it more than two years since, the said Francisco Lauriano Gomez declared on oath, before A. L. Walker, Clerk of the First Judicial District Court of said Territory, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to the King of Portugal, and it being further made to appear to the satisfaction of the Court, by the testimony under oath of Jose D. Ortiz and Atanasio Romero, citizens of the United States, that the said Francisco Lauriano Gomez has resided within the United States five years at least, and within the Territory of New Mexico one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and the said Francisco Lauriano Gomez declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, and particularly to the King of Portugal, It is ordered by the Court that the said Francisco Lauriano Gomez be and he hereby is admitted to become a citizen of the United States.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Twenty Third Day, Friday, August 19, 1892.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Twenty-Fourth Day, Saturday, August 20. 1892.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

It is ordered that Court do now adjourn until nine oclock tomorrow morning.

Twenty-Fifth Day, Sunday, August 21. 1892.

Court meets pursuant to adjournment

Present, as upon Saturday.

The record of Saturdays proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Twenty-Sixth Day, Tuesday August 23. 1892

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterday's proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Twenty-fourth Day, Wednesday, August 24th 1892.

Court meets pursuant to adjournment

Present as upon yesterday.

The record of yesterday's proceedings is read and approved.

519 Territory of New Mexico, appellee
vs
Jesse R. Hicks, appellant
Appeal from Doña Ana County.

This cause having been argued by counsel, and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Lee, affirming the judgment of the court below, Chief Justice O'Brien and Associate Justices Judd, and Truman concurring. It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Doña Ana, whence this cause came into this Court, be and the same hereby is affirmed, and that this cause be remanded to said District Court with directions to carry said judgment into execution.

513 Territory of New Mexico, appellant
vs
Pedro Garcia, appellee
Appeal from Doña Ana County

This cause having been submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Judd, affirming the judgment of the Court below, Chief Justice O'Brien and Associate Justice Lee concurring; it is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Doña Ana whence this cause came into this Court, be and the same hereby is affirmed, and that in accordance therewith the indictment therein be and the same hereby is quashed. And that said defendant and appellee go hence without day

510 Jesus Trujillo, Plaintiff in Error
vs
Territory of New Mexico, Deft in Error
Error to Mora County;

This cause having been argued by counsel, and submitted to, and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision, affirming the judgm-

of the court below; It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Mora whence this cause came into this court be and the same hereby is affirmed, and that this cause be remanded to said District Court with directions to carry into execution said judgment and sentence

Eugenio Ynisarri, Plff. in Error,
vs. Error to Santa Fe County.
Thomas Kaminski, Deft. in Error

This cause having been submitted to and taken under advisement by the Court upon a former day of the present term upon the motion of said defendant in error to affirm the judgment of the court below with ten per cent damages because of the failure of said plaintiff in error to file with the Clerk of this court a transcript of the record of said District Court & said defendant in error having produced and filed said transcript, the Court being now sufficiently advised in the premises, grants said motion and affirms the judgment of the court below with ten per cent damages. It is therefore considered and adjudged by the court that the judgment in this cause of the District Court of Santa Fe County, whence this cause came into this court, be and the same is hereby affirmed, and that in accordance therewith the said Thomas Kaminski recover of the said Eugenio Ynisarri the sum of Two Hundred and Twenty dollars the amount of the judgment of said lower court and ten per cent damages awarded by this court, with interest thereon at the rate of ten per annum from the 6th day of June, 1891, together with his costs in this behalf expended, as well in the court below as in this court, to be taxed, and that he have execution therefor: and it appearing to the court that August Kirschner and Charles M. Conklin are sureties upon the supersedeas bond of said Eugenio Ynisarri, It is further considered and adjudged by the court that the said Thomas Kaminski do have and recover of the said August Kirschner and Charles M. Conklin sureties as aforesaid, the sum of Two Hundred and twenty dollars, with interest thereon at the rate of ten per cent per annum from the 6th day of June, 1891, together with his costs in this behalf expended, as well in the court below as in this court, to be taxed, and that he have execution therefor.

523

Territory of New Mexico, Appellee
vs. Appeal from Lincoln County.
Felipe Silva, Appellant

Now comes the said appellee by her Solicitor General and produces here in open court a transcript of the record from

the District Court of the County of Lincoln and it appearing to this Court that no transcript of record has been filed by said appellant upon motion of said appellee by her Solicitor General for an affirmance of the judgment of the Court below. It is considered and adjudged by the Court that the judgment and sentence of the District Court in and for the County of Lincoln whence this cause came into this Court be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said District Court with directions to carry said judgment and sentence into execution.

Whereas Trinidad Romero United States Marshal has rendered to this Court an account of his disbursements for Day of Bailiffs at the July term 1892, at Santa Fe of the Supreme Court, with the vouchers and items thereof and in behalf of Eugene A. Fiske United States attorney, has proved on oath to the satisfaction of the Court that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law. It is hereby ordered that the said account amounting to Two Hundred and Sixteen dollars be and the same is hereby approved.

Territory of New Mexico, } Appeal from District
vs. } Court of Bernalillo
Edw. L. Bartlett. } County.

1.82

This cause coming on to be heard by counsel, and submitted for consideration of the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Chief Justice O'Brien, affirming the judgment of the Court below, Associate Justice Reed and Hoffe concurring, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the judgment and sentence herein of the District Court in and for this County of Bernalillo, whence this cause came into this Court be and the same hereby is affirmed, and that this cause be, and the same hereby is remanded to said District Court with directions to carry said judgment and sentence into execution.

Whereas Eugene A. Fiske, United States attorney, has rendered to this Court his account for services performed at the present term of this Court, with the items thereof, and has proved on oath to the satisfaction of the Court that the services therein charged for have been actually and necessarily performed as therein stated; and that on each day for which per diem is charged business was actually transacted in Court or Court was actually opened for the transaction of business; and whereas said charges appear

to be just and according to law. It is ordered that said account amounting to Two Hundred and Eighty dollars be, and the same is hereby approved.

Marcus H. J. Clancy, Clerk of this Court has rendered an account of his fees for services performed at and previous to the present term of Court with the time thereof and in presence of Augustus A. Luke U. S. Attorney has given an oath to the satisfaction of the Court that the services therein charged for have been actually and necessarily performed as therein stated; and also that on the days for which per diem is charged business was actually transacted in Court, or that Court was actually attended for business; and Marcus said charges appear to be just and according to law, It is ordered that said account amounting to Two Hundred and Ten dollars and eighty cents be and the same is hereby approved.

324 United States, Plaintiff, vs. Morris Yarmouth, defendant. } Appeal from the District Court

This cause having been submitted to and taken under advisement by the Court at a former term, the same now appearing advised in the premises, announces its decision by Associate Justice Hoyt, reversing the judgment of the Court below, Chief Justice Fuller and Associate Justices Brown, Lamar and Gray concurring, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the judgment of the District Court of the Third Judicial District of New Mexico herein, be and the same hereby is reversed, and that this cause be remanded to said Court for further proceedings in accordance with the views expressed, in said opinion.

475 William Garland, Executor, Plff. in Error, vs. Sterling Brothers, Defts. in Error } Error to District Court of Socorro County.

This cause having been argued by counsel, and submitted to and taken under advisement by the Court at a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice O'Brien, Associate Justices Lamar and McKenna concurring, reversing the judgment of the Court below; for reasons stated in the opinion of the Court on file; It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County

of Decree rehere this cause came into this Court &c and the same hereby is reversed, the Verdict &c aside and this cause remanded to said Court for further proceedings in accordance with the views in said opinion expressed; And it is further considered and adjudged by the Court that the said defendants in error pay all costs herein, to be taxed, and that execution issue therefor.

4497

August Kirschner, Plff. in error,
vs.
Gusdorf & Dendahl, Defts in Error

Error to Dutruch Court of Santa Fe County.

This cause having been submitted to and taken under advisement by the Court upon a former day of the present term upon the motion of said defendants in error to affirm the judgment of the Court below with ten per cent damages, because of the failure of said plaintiff in error to file with the clerk of this Court a transcript of the record of said Dutruch Court, and said defendants in error having produced and filed said transcript, the Court being now sufficiently advised in the premises, grants said motion, and affirms the judgment of the Court below with ten per cent damages; It is therefore considered and adjudged by the Court that the judgment in this cause of the Dutruch Court of Santa Fe County where this cause came into this Court, be and the same is hereby affirmed, and that in accordance therewith the said Gusdorf & Dendahl do have and recover of the said August Kirschner the sum of three thousand and thirty seven dollars and eighty two cents, the amount of the judgment of said lower Court with ten per cent damages ordered by this Court, with interest thereon at the rate of six per cent per annum from the 27th day of June, 1891, together with ten cents in this behalf expended, as well in the Court below as in this Court to be taxed, and that they have execution therefor: and it appearing to the Court that Lewis Spiegelberg and Charles McConklin are sureties upon the supersedeas bond of said August Kirschner, It is further considered and adjudged by the Court that the said Gusdorf & Dendahl do have and recover of the said Lewis Spiegelberg and Charles McConklin the sum of three hundred and thirty seven dollars and eighty two cents, with interest thereon at the rate of six per cent per annum from June 27, 1891, together with their costs in this behalf expended, as well in the Court below as in this Court, to be taxed, and that they have execution therefor.

4774
Solicitor General

The Territory Ex-rel William H. Whiteman Appellee
vs.
Demetrio Perez, Auditor &c Appellant

Appeal from Bernalillo County.

This cause having been submitted to and taken under ad

mark by the Court at a former term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice McFie Chief Justice O'Brien and Associate Justices Seeds & Freeman concurring affirming the judgment of the Court below, for reasons stated in the opinion of the Court on file. It is therefore Considered and adjudged by the Court that the judgment of the District Court in and for the County of Bernalillo & the cause came into this Court, be and the same hereby is affirmed; and it is further considered and adjudged by the Court that the said appellants pay all costs in this behalf expended to be taxed.

Fiske Jones #72 Spencer

The Scottish Mortgage and Land Investment Company of New Mexico, (Limited) Plaintiff in Error
vs.
William H. McBroom, Defendant in Error
} Error to San Miguel County

This cause having been argued by Counsel, and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Freeman, Associate Justices Seeds, Lee and McFie concurring, reversing the judgment of the Court below, for reasons stated in the opinion of the Court on file; It is therefore considered and adjudged by the Court, that the judgment in this cause of the District Court in and for the County of San Miguel be, & the same is reversed, and that this cause be and the same hereby is remanded to said District Court, with directions to proceed in accordance with the views expressed in the opinion of this Court, and it is further considered and adjudged that said defendant in error pay all costs in this behalf expended to be taxed, and that execution issue therefor.

Field 506 Bartlett

A. Cortesy, Plaintiff in Error
vs.
Territory of New Mexico Defendant in Error
} Error to Socorro County.

This cause having been argued by Counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justices Seeds, Associate Justices Lee and McFie concurring, and Chief Justice O'Brien dissenting, affirming the judgment of the Court below for reasons stated in the opinion of the Court on file; It is therefore considered and adjudged by the Court that the judgment in this cause of the District Court in and for the County of Socorro, whence this cause came into this Court, be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said District Court with directions to carry said judgment into execution.

Twenty-fourth Day. Wednesday, August 21st A. D. 1912

Clancy
507
Bartlett

The Territory of New Mexico, Ex-rel Charles H. Dudrow Plaintiff in Error
vs.
L. Bradford Prince Governor &c Defendant in Error
} Error to Santa Fé County.

This cause having been argued by Counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Chief Justice O'Brien, Associate Justices Lee, McFie and Freeman Concurring, affirming the judgment of the Court below for reasons stated in the opinion of the Court on file; It is therefore Considered and adjudged by the Court that the judgment in this cause of the District Court in and for the County of Santa Fé, whence this cause came into this Court be and the same hereby is affirmed; And it is further Considered and adjudged by the Court that the said Plaintiff in error Charles H. Dudrow pay all Costs in this behalf expended, as well in the Court below as in this Court to be taxed and that Execution issue therefor.

Bartlett
516
Laughlin

Edward G. Berry et al Appellees
vs.
Henry Hull, County Commissioner of San Juan County et al, Appellants
} Appeal from San Juan County

This cause having been argued by Counsel and submitted to and taken under advisement by the Court, upon a former day of the present term the Court being now sufficiently advised in the premises announces its decision by Associate Justice Freeman, Chief Justice O'Brien and Associate Justice Lee and McFie Concurring, affirming the decree of the Court below, It is therefore Ordered, Adjudged and decreed by the Court that the decree of the District Court in and for the County of San Juan whence this cause came into this Court be and the same hereby is affirmed, and that in accordance therewith the County Seat of the County of San Juan Territory of New Mexico, be and hereby is established at the town of Aztec in said County, and that said Appellants Henry Hull, Henry J. Kiffen and Louis Pfisner, the Board of County Commissioners of the County of San Juan, Territory of New Mexico, and John C. Carson, Sheriff, Frank M. Pearce Treasurer, J. G. Kello Probate Clerk, Salome Jaques Probate Judge and Hector Martinez Assessor of the said County of San Juan, or their successors in office forthwith, within ten days from service of Copy of this decree, remove and establish at said Town of Aztec, their respective offices, together with all books, papers, records, Archives and documents pertaining thereto and that they maintain their said several offices at said place called Aztec, that place having been legally and lawfully selected and chosen by a majority of the legal voters of said County as the County Seat, that each of the parties hereto pay their own Costs incurred and expended by them in

this behalf in the Court below, except the charges of the examiner for taking testimony therein, which charge and expense is to be borne equally by the parties hereto, said examiner H. S. Clancy Esq. being allowed the sum of two hundred & fifty dollars for his services, and that execution issue therefor, and it is further ordered, adjudged and decreed by the Court that the said Appellants pay all costs in the Court herein expended to be taxed in this Court and that execution issue therefor. And it appearing to the Court that L. H. Goe, H. Dean, A. Rambaugh, F. A. Carson, Ordinary Phelps, J. M. Major and Herbert O. Hills, have sureties upon the Appeal Bond of said Appellants, it is further ordered, adjudged and decreed by the Court that the said Appellees recover of the said sureties their costs laid out and expended in connection with the suing out of the Appeal herein, as well in the Court below as in this Court to be taxed. And it is further Ordered, adjudged and decreed by the Court that the said sureties do pay one half of the charge and expense of the examiner aforesaid, together with all costs incurred by said Appellants in this Court the law, and that execution issue therefor.

Honorable T. B. Catron an Attorney, Solicitor and Counsellor of this Court, with fitting remarks on behalf of the members of the Bar in attendance upon this Court, Now asks leave to read, and have spread upon the record a resolution relative to the retirement from the Bench of the Honorable James O'Brien, Chief Justice; and after further remarks by the Honorable A. A. Freeman Associate Justice of this Court, E. M. Fiske Esquire, United States District Attorney and F. W. Cloan Esquire, which are reckonded to by the Chief Justice, It is Ordered by the Court that the said resolution be spread upon the record of this Court, which is accordingly done in words and figures following, to wit: 60

Whereas, The Members of the Bar have learned with regret that the Honorable James O'Brien has tendered his resignation as Chief Justice of this Territory, and they feel that such expression of the regard and esteem of the Bar of this Jurisdiction is proper to be expressed toward the retiring Chief Justice,

Therefore, Be it Resolved, by the members of the Bar in attendance that we have learned with regret the determination of Chief Justice James O'Brien to retire from the Bench of this Territory.

That we recognize in him a conscientious, able, efficient, energetic and courageous judge, one whose learning is most thoroughly esteemed in this Territory, and we do most earnestly commend to the good offices and favorable consideration of all peoples and Communities with whom it may be his fortune to cast his lot.

It is Ordered by the Court that the following allowances to be paid by the Territory of New Mexico, be and the same hereby are made to

The New Mexican Printing Co. for printing docket $ 150.00
H. L. Clancy Clerk - 27 days attendance 108.00

1428 The New Mexican Railroad Company
vs
George B. Hendricks and Elizabeth Hendricks, } Error to District Court of San Miguel County.
Defts. in Error

This cause having been argued by counsel, and submitted to and taken under advisement by the court at a former term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Truman, affirming the judgment of the court below for reasons stated in the opinion of the court on file, Associate Justices Lee and Seeds concurring, and Chief Justice O'Brien and Associate Justice Smith dissenting; It is therefore considered and adjudged by the court that the judgment of the District Court within and for the County of San Miguel whence this cause came into this court be and the same hereby is affirmed, and it is ordered that therewith the said George B. Hendricks and Elizabeth Hendricks do have and recover of The New Mexican Railroad Company the sum of Four Hundred Dollars with interest thereon at the rate of six per centum per annum from the tenth day of December 1889, together with their costs in this behalf expended to be taxed in the court below as in the cause to be had; and that they have execution therefor.

It is ordered that court do now adjourn until the second day of January 1893.

Twenty Eighth Day. Monday. January 2. 1893.

Court meets pursuant to adjournment.

Present as upon Wednesday, August 2d. 1892. Enoch O'Brien Esq.

492	The Scottish Mortgage and Land Investment Company of New Mexico, (Limited) vs William H. McBroom.	Plff in Error Deft in Error	Error to District Court of San Miguel County

Now comes the said defendant in error by his attorney Frank Springer, Esq. and moves the court to grant a rehearing of this cause; and the said plaintiff in error comes by its attorneys A.A. Jones and Eugene A. Gilbert and moves the court to strike said motion for rehearing from the files, and the court not being sufficiently advised in the premises takes said motions under advisement.

475	William Barlow, Plaintiff in Error vs Sperling Greiner, Deft in Error	Plaintiff in Error	Error to District Court of Socorro County

Now come the said plaintiff in error by their attorney N. B. Laughlin Esq. and move the court for a rehearing of this cause, and the said defendant in error comes by their attorneys A.A. Jones and Eugene A. Gilbert Esq. and moves the court to strike said motion for rehearing from the files, and the court not being sufficiently advised in the premises takes the same under advisement.

506	A. Bartlett, Plaintiff in Error vs Territory of New Mexico, Defendant in Error	Plaintiff in Error Defendant in Error	Error to District Court of Socorro County.

Now comes the said plaintiff in error by his attorney N. B. Field Esq., and moves the court to grant him a rehearing of this cause; and the said defendant in error comes by her Solicitor-General L. L. Bartlett Esq. and moves the court to strike said motion for re-hearing from the files for reasons stated in her motion on file; and the court not being sufficiently advised in the premises, takes said motions under advisement.

482	Territory of New Mexico, Appellee vs U. O. Edie, Appellant	Appellee Appellant	Appeal from District Court of Bernalillo County

Now comes the said appellant by his attorney N. B. Field Esq, and moves the court to grant him a re-hearing of this cause; and the said appellee comes by her Solicitor-General L. L. Bartlett Esq, and moves the court to strike said

motion for rehearing from the files, for reasons stated in her motion on file, and the Court not being sufficiently advised in the premises, takes said motions under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Twenty-Ninth Day, Tuesday January 3. 1893

Court met pursuant to adjournment.

Present, As upon yesterday. and also Hon. N. D. Lee Associate Justice.

The minutes of yesterdays proceedings is read and approved.

On motion of N. D. Field Esq. It is ordered by the Court that Evan N. Warren be a member of the Bar of the Second Judicial District Court of this Territory be and the same is admitted to practice as an attorney, Solicitor and Counsellor of this Court, and he thereupon takes in open Court and takes the oath prescribed by the rules of this Court.

1498

Henry Hunicke, Plaintiff
vs.
Henry Daly, Defendant

Appeal from District Court of San Miguel County

The cause having been argued by counsel, and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Lee, Associate Justice Reed, Freeman and Wells concurring, remanding the cause to the court below with leave to said defendant to amend his bill of Complaint generally, and in case he should fail so to do that the same shall be dismissed without prejudice. It is therefore considered and adjudged by the Court that this cause be and the same hereby is remanded to the District Court in and for the County of San Miguel where this cause came into this Court. with directions to said District Court to allow said defendant to amend his bill of Complaint generally, and in case he should

And so it is the intention of our citizens to [illegible] further extend our aid and help to said [illegible] and to this end we will [illegible] and [illegible] and [illegible] and

executions upon said judgments. It is ordered by that Court that such executions as may hereafter be called for in these causes, be directed to John W. Gray, who is hereby authorized and directed to serve the same.

520 Maxwell Land Grant Co. Plff. in Error
vs.
John B. Dawson, Defk. in Error
} Error to District Court of San Miguel County.

By agreement of the said parties by their respective attorneys, this cause is submitted to the Court without argument upon the transcript of record and briefs of counsel on file herein.

399 The Maxwell Land Grant Company Plff. in Error
vs.
Jacinto Santistevan, Defk. in Error
} Error to District Court of Colfax County.

This cause having been submitted to and taken under advisement by the Court at a former term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Reed, modifying the judgment of the Court below, Associate Justices Freeman and Mills concurring, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by this Court, that in accordance with the judgment of the District Court in and for the County of Colfax, whence this cause came into this Court, as modified by this Court, the said The Maxwell Land Grant Company do have and recover of the said Jacinto Santistevan the possession of the following described real estate situated in the County of Colfax and Territory of New Mexico described as follows: to wit: Commencing below the junction of the Rayado River with the Colorado and in a direct line Towards the East to the first hills and from thence running parallel with said river Colorado in a Northerly direction to opposite the point of the Vria de Gato following the same river along the same hills to continue to the East of said Vria de Gato river to the summit of the table land (mesa) and from thence turning north west to follow along said summit until it reaches the top of the mountain which divides the waters of the rivers running towards the East from those running towards the west, and from thence following the lines of said mountain in a southwardly direction until it intersects the first hills south of the Rayado river, and following the summit of said hill towards the East to the place of beginning; and It is further considered and adjudged by the Court that the said Jacinto Santistevan do have three mo[illegible]

Day, A. D. 189

from the date of this judgment in which to remove his improvements from said land, and that at the end of said period, a writ of possession issue to said The Maxwell Land Grant Company for the hereinbefore described real estate; and It is further considered and adjudged by the court that the said plaintiff in error do have and recover of the said defendant in error all costs in this behalf expended, as well in the court below as in this court, to be taxed, and that execution issue therefor.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock

Thirtieth Day, Wednesday, January 11, 1893.

Court meets pursuant to adjournment

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved

517 John N. Perry et al. appellees
vs.
J. D. Martin, appellant
Appeal from District Court of Socorro County.

This cause having been argued by counsel, and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Bantz affirming the decree of the Court below. Associate Justices Mc Fie and Lee concurring, for reasons stated in the opinion of the Court on file. It is therefore ordered, adjudged and decreed by the Court that the decree of the District Court sitting within and for the County of Socorro where this cause came into this Court be, and the same hereby is affirmed and that in accordance therewith the said appellant J. D. Martin, within ten days from the date of this decree do pay to the Register of the Fifth Judicial District Court of the Territory of New Mexico in and for the County of Socorro, the sum of six hundred and fifty dollars and thirty three cents with interest thereon from the 25th day of January 1890 at the rate of six per cent per annum, together with all costs in this behalf expended as well in the Court below as in this Court to be taxed, and that execution issue therefor; and it appearing to the Court that W. E. Perry, Samuel D. Mack, P. D. Griffin, and C. L. McKee are sureties upon the appeal bond of said appellant, It is further ordered, adjudged and decreed by the Court that the said appellees to have and recover of said sureties, in case of the failure of said appellant to pay said sum of money to said Register, the sum of six hundred and fifty dollars and thirty three cents with interest thereon from the 28th day of January 1890 at the rate of six per cent per annum together with all costs in this behalf expended, as well in the Court below as in this Court to be taxed, and that execution issue thereon.

Thursday, January 14th A. D. 1893

[illegible] Court [illegible]

[illegible] Court [illegible]

[illegible] Court [illegible]

Thirty-first Day. Monday January 23. 1893.

Court met, pursuant to adjournment.

Present, as upon January 11. 1893, and also Hon. James O'Brien, Chief Jus

1494.	Eugenio Gruesarri, Plff in Error vs. Thomas Kaminski, Deft in Error	Error to District Court of Santa Fe County.
1495.	August Kirschner, Etal, Plffs. in error vs. J.M.C. Chavez Etal, Defts. in Error	Error to District Court of Santa Fe County.
1496.	August Kirschner, Etal, Plffs. in Error vs. Isador Perran, Deft. in Error	Error to District Court of Santa Fe County.

It appearing to the court that John Gray, who was appointed a special officer of this court at a for day of the present term for the purpose of serving executions in the foregoing three causes, is unable to perform his duties, It is ordered by the court that E.G. Seward, be, and he hereby is appointed as such special officer in the place and stead of the said John Gray, with full power and authority to serve said Executions.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thirty-second Day. Tuesday January 24. 1893.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Thirty-Third Day. Wednesday January 25. 1893.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The record of yesterdays proceedings is read and approved.

On motion of C.L. Bartlett, Esq., It is ordered by the Court that Mrs. Henrietta Pettyjohn, a member of the Bar of the Eighth Judicial District of this Territory be, and she hereby is admitted to practice as an Attorney, Solicitor and Counselor of this Court, and she thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

500 Vicente Chavez, Etal, Plffs. in Error
vs.
Barbara Chavez de Sanchez, Deft. in Error

Error to District Court of Valencia County.

This cause having been argued by counsel and submitted to, and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice McFie, Chief Justice O'Brien and Associate Justice Reed concurring, affirming the judgment of the court below for reasons stated in the opinion of the court on file; It is

therefore considered and adjudged by the court that the judgment of the District Court within and for the County of Valencia wherein this cause came into this Court be, and the same hereby is affirmed, and that in accordance therewith the said Barbara Chavez de Sanchez have and recover from the said Vicente Chavez, Benigno Chavez, Juan Jose Chavez, Dolores Gabaldon, Simon Serna and Francisco Chavez, the south half of the north east quarter and the south half of the north west quarter, and the north west quarter of the south east quarter of Section twenty, in township six north of range two east of the principal meridian of New Mexico, according to the public land surveys of the United States, situate in the said county of Valencia and Territory of New Mexico, and that she have a writ of possession therefor; and it is further considered and adjudged by the court that said plaintiffs in error pay all costs in this behalf expended, as well in the Court below as in this court, to be taxed, and that execution issue thereon.

It is ordered that Court do now adjourn until February 27th, 1893.

Thirty Fourth Day, Friday February 27. 1893.

Court met pursuant to adjournment.

Present as upon Wednesday, January 25. 1893.

Vicente Chavez et al, plffs in Error
vs. } Error to District
Barbara Chavez de Sanchez, Deft in Error } Court of Valencia
County.

And now this day plaintiffs in error by their attorney F.W. Clancy Esq., and move the Court, for reasons stated in their motion on file, to grant them a rehearing of this cause, and the Court not being sufficiently advised in the premises, takes said matter under advisement.

5 C.

Thirty Fifth Day, Tuesday February 28th 1893

Court met pursuant to adjournment.

Present, as upon yesterday.

The mem of yesterdays proceedings is read and approved.

Now came Eugene A. Fike, United States attorney for the Territory of New Mexico has rendered to this court his account for services performed at the present term of this court with the U.S. Grand Jury, and has sworn on oath to the satisfaction of this court that the services therein charged for were duly actually and necessarily performed as therein stated, and that on each day for which per diem is charged business was actually transacted in court, or court was actually opened for and for the transaction of business, and whereas, said charges appear to be just and according to law; It is ordered by court that said account amounting to twenty dollars, be and the same is hereby allowed.

Now came No. 3, January Clerk of the court has rendered an account of his said services performed at and previous to the present term of court with the items thereof, and in behalf of Eugene A. Fike U.S. attorney has sworn on oath to the satisfaction of the court that the services therein charged for have been actually and necessarily performed as therein stated and also that on the days for which per diem is charged, business was actually transacted in court or that court was actually opened for business; and whereas, said charges appear to be just and according to law, It is ordered that said account amounting to Eighty Eight 00/100 dollars be and the same is hereby allowed.

In matter of Jas. B. Hall, Esq. It is ordered by the court that Giles A. Alexander an attorney of the Third Judicial District Court of this Territory, be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court and the thereupon appears in open court and takes the appeal oath prescribed by the rules of this court.

1871

Anna P. Brown Plff in Err
vs
Thos Dun et Julian Dun, Deft in Err

Error to District Court of Denver County.

This cause coming on to be heard upon the transcript of the record and briefs filed herein and counsel for the respective parties hereto having been heard in the premises. On consideration whereof it is the opinion of this Court that there is no error in the judgment aforesaid rendered in this cause by the District Court of the City and County of Denver in this behalf and that the same be affirmed with costs to the defendants in error to be taxed and that a mandate issue therefor.

2141

Elizabeth Stella Hamilton, Plaintiff in Error
vs
The Colorado Central Silver Mining Company, a corporation, Defendant in Error.

Error to District Court of Gilpin County.

1142

William H. McBroom, Plff in Error
vs
Thomas Dun et Julian Dun, Deft in Error

The court having considered the motion for a rehearing in the above entitled cause and being fully advised in

the premises. It is considered and adjudged that said mo-
tion and the same is denied and overruled. And at the
cost of the said defendant in error that in case this
should adhere to its opinion filed and judgment heretofore en-
tered in this cause, that then this court would, for the purpose
of facilitating an appeal of this cause by said defendant in
error to the Supreme Court of the United States, modify its
judgment in this cause heretofore entered in this court rever-
sing and remanding said cause and would instead thereof enter
a final judgment in this court against said defendant in
error. It is further considered after an examination of the record
in said cause that the judgment heretofore entered in said
cause due and the same is hereby so modified that Seniority da-
mages be not awarded in said cause and upon the facts con-
tained in said record, It is considered by the court that the
said plaintiff in error as to the matters complained against
it, go hence without day, and that it have and recover of and
from the said defendant in error its costs laid out and ex-
pended in this court as well as in the District Court, and have
execution therefor.

482 The Territory of New Mexico, appellee. vs. O. C. Edie, appellant. Appeal from District Court of Bernalillo County.

The motion of said appellant for a rehearing of this cause having been submitted to the court upon a former day of the present term, the court being now sufficiently advised in the premises, grants said motion; It is therefore ordered by the court that said motion be and the same hereby is granted.

514 William H. Bucher, Trustee, appellee. vs. Hiram Thompson, Etal, appellants. Appeal from District Court of Luna County.

This cause having been argued by counsel, and sub-
mitted to, and taken under advisement by the court at a
former day of the present term, the court being now suffi-
ciently advised in the premises announces its decision by Se-
nior Justice Lee, Chief Justice O'Brien and Associate Justice
Freeman concurring, Associate Justice Pope dissenting, reversing the
judgment of the district court, for reasons stated in the opinion
of the court on file, It is therefore considered and adjudged
by the court that the judgment and decree of the District
Court in and for the County of Luna, whence this cause
came into this court, be and the same hereby is reversed
and that this cause be, and the same hereby is rem

to said court with instructions to overrule the demurrers to the answers and to further proceed in accordance with the opinion of this court.

William Ireland Plff in Error

vs.

Reuben Arthur, Deft in Error

The motion of defendants in error for an extension of time within which to file their petition in error was submitted to the court upon a former day of the present term, the court being now sufficiently advised in the premises, overrules the motion for the reason stated in the opinion of the court that said motion for an extension of time within which to file petition in error was filed too late.

Error to District Court of Pierce County.

It is ordered by the court that there be a fifty cent bill of costs be allowed, the sum of thirty three dollars for eight days attendance at four dollars per day, to be paid by the Territory

It is ordered by the court that all cases, matters, writs, and other proceedings not otherwise disposed of, and the same hereby are continued until the next succeeding term of this court.

It is ordered that court do now adjourn sine die

James O'Brien
Chief Justice 9th.

First Day. Monday, July 21. A.L. 1.

At a regular term of the Supreme Court of the Territory of New Mexico, begun and held at Santa Fe New Mexico on the last Monday of July in the year one thousand eight hundred and ninety three, the same being Monday July 21. 1893:-

Present:-
Hon. James O'Brien, Chief Justice.
Hon. Edward P. Seese, associate Justice
Hon. A. A. Freeman, Associate Justice
Eugene A. Fiske, United States District Attorney.
Edward L. Hall, United States Marshal.
H. D. Blaney, Clerk.

It is ordered by the Court that Jas O'Brien and Domingo Pacheco be and they hereby are appointed bailiffs to the Court, and they thereupon appear and are duly sworn as such.

Edward O. Ellard, Plff. in Error
vs
Sabino Sedillo, Deft. in Error.
} Error to San Miguel County

On motion of said defendant in error by his attorney T. B. Catron Esq it is ordered by the Court that this cause be and the same hereby is continued until the next term of this court, and leave to said Plaintiff in error to file his brief herein on or before the next term of this court.

United States of America, Defendant
vs
Santa Cruz Valencia, Appellant
} Appeal from Third Judicial District.

Now comes the said appellant by its attorney and moves the Court to dismiss said appeal, and the Court not being fully advised in the premises, takes the same under advisement.

Louis Hilgenheimer Assignee of C. E. Kennett & Co.
vs
David C. Winters, Deft. in Error.
} Error to San Miguel County.

Now comes the said plaintiff in Error by his attorney, and moves under Sec. and says to the Court here that he will not further prosecute his said writ, but dismisses the same; It is therefore ordered by the Court that the said defendant in error as to said writ, go hence without day, and recover of said plaintiff in error his costs in this behalf expended as well in the Court below as in this Court, to be taxed, and that he have execution therefor.

First Day, [illegible] A. D. 179[illegible]

[illegible]

[illegible]

Second Day, Tuesday, August 1, 1893

Court meets pursuant to adjournment.

Present, as upon yesterday, and also the Honorable H D. Lee and the Honorable A. P. Fall Associate Justices.

It is hereby ordered by the Court the Rule 20 of this Court be and the same is hereby amended so as to read as follows:-

"All cases on the calendar except cases advanced as hereinafter provided shall be heard when reached on the regular call of the docket and in the order in which they are entered.

"Criminal cases may be advanced by leave of the Court on motion of either party.

"Cases in which the United States are concerned, or cases which involve or affect some matter of general public interest or policy, may also by leave of the Court be advanced upon motion of either party.

"Two or more cases involving the same questions may by leave of the Court be heard together; but they must be argued as one case".

Barbara Head, Appellant
vs
William Small et al Appellees

Appeal from Bernalillo County.

On motion of said parties by their respective attorneys, It is ordered by the Court that this cause be and the same hereby is continued until the next term of this Court.

Territory ex rel. Padilla
vs
William H. Tucker

Mandamus.

On motion of said Relator by his attorney F. W. Clancy, It is ordered by the Court that this cause be, and the same hereby is stricken from the docket

5574 Patrick H. Ford, Returned
vs
Lorenzo Lomas Association, Etal, Appellants

Appeal from Socorro County

On motion of Appellants by their attorney Frank Ramsey Esq., It is ordered by the Court that they have until August 20, 1893 in which to file their brief herein.

In matter of A. Alexander Esq., It is ordered by the Court

Third Day, Wednesday August 2 1893

Court meets pursuant to adjournment

Present as upon yesterday.

HHH

United States of America, Appellee
vs
Santa Cruz Rosario, Appellant

Appeal from Third Judicial District.

This cause coming on upon the motion of said Appellee to dismiss said appeal, taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, denies the same; It is therefore ordered by the court that said motion be and the same hereby is denied; and thereupon the said Appellee by their District Attorney, announce themselves as ready for hearing.

United States of America, Appellee
vs
Indalecio Vargas, Appellant

Appeal from Third Judicial District.

Came the said Appellee by their District Attorney, and move the court to dismiss said appeal, and said motion being opposed by the Appellant is submitted to the court, and the court being sufficiently advised in the premises, denies the same. It is therefore ordered by the court that said motion be and the same hereby is denied; and thereupon the said Appellee by their District Attorney announce themselves as ready for hearing.

522

F. M. Faulkner, Plff. in Error
vs
Wm. G. Johnson, Deft. in Error

Error to San Miguel County

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by Frank Ellmaker Esq. for plaintiff in error, and A.A. Keen Esq. for defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

181

United States of America, Appellee
vs
Elias Vigil, Appellant

Appeal from Second Judicial District.

It is ordered by the court that this cause be set down for hearing upon August 10th, 1893.

Mar Day, [illegible] A. D. 189[illegible]

[illegible] County

[illegible]

[illegible]

[illegible]

amount of the judgment of said lower court with ten per damages awarded by this court with interest thereon at the rate of six per cent per annum from the 16th day of June, 189 together with the costs in this behalf expended, as well in the court below as in this court to be taxed, and that he have execution thereof; and it appearing to the court that Grant Ruenburg and N. D. Warren are sureties upon the supersedeas bond of the said Burge N. Bucker, It is further considered and adjudged by the court that the said James L. Van Arsdale recover of the said Grant Ruenburg and N. D. Warren Sureties as aforesaid, the sum of three hundred and thirty dollars, with interest thereon at the rate of six per cent per annum from the 16th day of June 1892, together with his costs in this behalf expended, as well in the court below as in this court to be taxed, and that he have execution thereof.

It appearing to the court that there are probably papers in cases to which the United States is a party, now remaining in the vault of the Supreme Court room at the Capitol building of the Territory of New Mexico at Santa Fe New Mexico which was destroyed by fire in Dec. 1892; and it further appearing to the court that the said vault has never been opened, It is ordered that the United States Marshal be, and he hereby is directed to open said vault, and ascertain as to whether or not said papers together with others in said vault have been destroyed, and in case they have not been destroyed to convey them to the county court house of the county of Santa Fe and deliver the to the Clerk of this court.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Fourth Day, Thursday, August 3. 1893.

Court met pursuant to adjournment

Present as upon yesterday.

Atchison, Topeka & Santa Fe Railway Co. Plaintiff in Error
vs. No. 1
Canada Dalton, Defendant in Error

Now come the said defendant in error, and moves the Court for reasons set forth in his motion on file, to quash the writ of error heretofore issued herein, and said motion being argued by H. G. Field Esq for defendant in error, and by H. L. Waldo and H. E. Childers for plaintiff in error, is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

On motion of E. A. Hart & Geo. C. Hoss it is ordered by the Court that Thos. F. Dealy, a member of the bar of the Supreme Judicial District of this Territory be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this Court, and he thereupon appears in open Court, and takes the official oath prescribed by the rules of this Court.

Atchison, Topeka and Santa Fe Railway Co. Plaintiff in Error
vs. No. 2
Conkey, Plaintiff in Error

Joaquin Martin, Etc. Defendant in Error

Now come the said defendant in error, and moves the Court for reasons set forth in his motion on file, to quash the writ of error heretofore issued herein, and said motion being argued by H. G. Field Esq for defendant in error, and by H. L. Waldo and H. E. Childers for plaintiff in error, is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

On motion of K. McKittrick, it is ordered by the Court that W. B. Houston, a member of the bar of the Second Judicial District Court of this Territory be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this Court and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

Fourth Day. Thursday August 3 C.

541

Margaret E. Walker, Plff. in Error
v.
The New Mexico and Southern Pacific Railroad Company, Deft in Error

Error to Socorro County.

Now came the said defendant in error by its attorneys N. B. Childers and H. L. Waldo Esquires, and suggests a diminution of the record herein, and moves the court to grant it a writ of certiorari directed to the District Court in and for the County of Socorro in accordance with its motion on file, and said motion being argued by Messrs Waldo and Childers for defendant in Error and W. B. Field Esq. for plaintiff in error is submitted to the court and the court not being fully advised in the premises takes the same under advisement.

542

Joaquin Chavez, Appellee
vs
Atchison, Topeka & Santa Fe Railroad Company, Appellant

Appeal from Bernalillo County.

Now came the said appellee by his attorney, N. B. Field Esq. and moves the court for reasons stated in his motion on file to dismiss the appeal herein, and said motion being argued by W. B. Field for appellee and H. L. Waldo and N. B. Childers Esquires, for Appellant is submitted to the court and the court not being fully advised in the premises takes the same under advisement.

543

Atchison, Topeka & Santa Fe Railroad Company, Plff. in Error
vs
Joaquin Chavez, Deft. in Error

Error to Bernalillo County.

It is ordered by the court that this cause be, and the same hereby is set for hearing upon August 14. 1893.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

A. D. 1894

Day

Filed

Plaintiff's Attorney

Defendant

Defendant's Attorney

Plaintiff's Attorney

Defendant

Defendant's Attorney

Plaintiff's Attorney

Defendant

Defendant's Attorney

736

New Mexico and Southern Pacific Railroad Company, Plff. in Error
vs
James N. Madden Deft. in Error

Error to Dumalia County.

Now comes the said defendant in error by his attorney H. L. Raum Esq, and moves the court, for reasons stated in his motion on file, to dismiss the writ of error herein, and said motion being argued as now for said plaintiff in error by H. L. Waldo and N. B. Childers Esquires, as for said defendant in error, is submitted to the court, and the court not being sufficiently advised in the premises, take the same under advisement.

It is ordered that Court do now adjourn until next Monday morning at ten o'clock

South Day Term August A. D. 1893

Court met pursuant to adjournment

Present, the Hon. Neal B. Laughlin Judge

Chas. E. Gunderson Sheriff

Chas. E. Cobbs Clerk

Chas. H. Seldon Attorney

Present Gunderson Sheriff

No. 1 This cause coming on to be heard on the motion of the defendant to dismiss the appeal herein, and it appearing to the court that the appellant has failed to file the transcript of record herein within the time required by law, and that the appellee has moved the court to dismiss the appeal herein, and the court being fully advised in the premises finds that the motion should be sustained and that the appeal should be dismissed at the cost of the appellant.

No. 2 This cause coming on to be heard upon the motion of the defendant to dismiss the appeal herein, and it appearing to the court that the appellant has failed to file the transcript of record herein within the time required by law, and that the appellee has moved the court to dismiss the appeal herein, and the court being fully advised in the premises finds that the motion should be sustained and that the appeal should be dismissed at the cost of the appellant.

Now come N. E. Booth Esq. Attorney General of the Territory of New Mexico, and appears to the court here, the following

report.—

Your Committee appointed on the first day of the present term of this court to prepare and present resolutions upon the death of Dement H. Smith, N. E. Coons and P. L. Van der Veer, as members of this bar who have departed this life since the last session of the court would respectfully submit the following:—

Resolved, that the Supreme Court of New Mexico and the bar has learned with sorrow of the sad and sudden deaths of Dement H. Smith, N. E. Coons and P. L. Van der Veer, all of which occurred in Santa Fe in the months of March and April last.

That they were each recognized as able and honorable members of the bar of this court, and that in their sudden taking off the profession has lost three members whom it could ill spare.

That the sympathy of this court and its bar is hereby extended to the families of the deceased, and that these resolutions be entered of record by the clerk of this court, and that the same do now adjourn out of respect to the memory of our departed brethren.

Edward L. Bartlett
Francis Downs,
Frank Ellinger.

Comes on William Bowden Esq. It is ordered by the court that Hilario Ortiz a member of the bar of the First Judicial District Court of this Territory be and he thereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears and takes the oath prescribed by the rules of this Court.

A. McAmon Plff. in Error
vs
United States of America, Deft. in Error

Error to Second Judicial District Court.

This cause coming on for hearing upon the stipulated facts assignments of error and brief of plaintiff in error, is argued by C. S. Hodgen Esq. for plaintiff in error and E. A. Fiske Esq. United States District Attorney for defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Court met pursuant to adjournment

Present the Hon. Charles Truax, Judge

Sheriff Wm. Ehlers

Clerk Chas. Pfund

Journal of proceedings of yesterday read and approved.

Attorneys for plaintiff and defendant in error respectively present.

Counsel for plaintiff in error proceeds with his argument.

Counsel for defendant in error proceeds with his argument.

Counsel for plaintiff in error closes.

On motion the following order is made:

It is ordered that the cause of Theodore Kirchner et al vs. Fred Meyer et al, be dismissed this day at the costs of plaintiffs in error, and the same thereby is dismissed and that the defendants in error, to wit: Theodore Kirchner and August Kirchner all costs in this behalf expended in and in the Court below as in this Court to be taxed, and that he have execution therefor.

It is now ordered that Court do adjourn until tomorrow morning at ten o'clock.

Eighth Day, Wednesday, August 9, 1893.

Court meets pursuant to adjournment

Present, as upon yesterday, and also the Hon. A. B. Fall

530 Illinois Silver Mining and Milling Company Etal, Plaintiffs in Error vs Daniel Raff, Etal, Defendants in error — Error to District Court of Grant County.

On motion of said plaintiffs in error by their attorney N. B. Field Esq, It is ordered by this Court that a rule be, and the same hereby is entered upon the clerk of the District Court in and for the County of Grant to immediately transmit to this court all exhibits, including specimens of ore and two models of a mine now on file in this office in said cause, and that the clerk of this court do, and he hereby is directed, to transmit to the clerk of said District Court, a certified copy of this order.

521 Territory of New Mexico, Appellee, vs William H. Thayer, Appellant — Appeal from Lincoln County.

This cause coming on for hearing upon the transcript of record and briefs of counsel on file, as argued by E. L. Bartlett Assistant Counsel for appellee and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Ninth Day. Thursday. August 10 1893

Court met pursuant to adjournment.

Present as upon yesterday, with the Hon. O. A. Thomas.

Circuit Judge of Second Judicial Circuit.

Appeal from Grant County.

No. 1

Craig Lail, Appellant

vs.

Jackson, Sabula & Sioux City Railroad Company, Appellee.

On motion of said appellee, by his attorney T. S. Fuller, leave is granted to withdraw the cause that this cause be, and the same hereby is dismissed at the cost of appellant.

Error to Grant County.

No. 2

Joaquin d'Artin, Appellant

vs.

Jackson, Sabula & Sioux City Railroad Company, Appellee.

Error to Grant County.

This cause coming on upon the motion of said appellee to dismiss the appeal herein, heretofore made, and taken under advisement by the court, the court being now sufficiently advised in the premises, grants said motion. It is ordered therefore by the court that said motion be, and the same hereby is granted, and that said appellee as to said appeal go hence without day, and recover of said appellant his costs in this behalf expended to be taxed, and that he have execution therefor.

No. 3

Joaquin d'Artin, Appellant

vs.

Jackson, Sabula & Sioux City Railroad Company, Appellee.

Error to Grant County.

This cause coming on upon the motion of said appellee to dismiss the appeal herein, heretofore made, and taken under advisement by the court, the court being now sufficiently advised in the premises, does grant said motion. It is therefore ordered by the court that said motion be, and the same hereby is granted.

Ninth Day Thursday August 10th

540 Pacific Gold Company Plff. in Error } Error to Eddy County
vs
William Skillicorn, Etal

On motion of said Plaintiff in error, It is ordered by the court that it have until August 17 in which to file its bond herein.

533 The Pueblo of Tesuque
Plff. in Error } Error to Santa Fe County
vs.
Cesar Maria Montoya, Deft. in Error

Now comes the said defendant in error by his attorneys Daniels Dorsey and L.A. Hughes Esq. and moves the Court for reasons stated in his motion on file to dismiss said writ of error, and said motion being argued by said Dorsey and Hughes for defendant in Error and B.M. Read Esq. for Plaintiff in error, is submitted to the court, and the court being sufficiently advised in the premises, grants said motion: It is therefore ordered by the court that said motion be and the same hereby is granted, and that said writ of error be and the same hereby is dismissed; and It is considered and adjudged by the court that the said defendant in error do have and recover of said Plaintiff in Error and its sureties upon its cost bond B.M. Read and Antonio Montoya his costs in this behalf expended as well in the court below as in this court to be taxed, and that he have execution therefor.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Tenth Day. Friday August 11. 1893.

Court met pursuant to adjournment.

Present as upon yesterday.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Eleventh Day. Saturday. August 12. 1893

Court met pursuant to adjournment.

Present as upon yesterday.

745

John H. Clancy, appellant
vs.
John H. Clancy, Administrator, Appellee

Appeal from Dow Chicago County

By stipulation of said parties duly filed herein wherein attorneys, It is ordered that this cause be, and the same hereby is set for hearing on August 28. 1893.

It is ordered that court do now adjourn until Monday morning at ten o'clock

Twelfth Day, Monday, August 14th 1893

Court met pursuant to adjournment.

Present as upon Saturday.

555 The Territory of New Mexico, Appellee, vs. James A. Tomlinson, Appellant. } Appeal from Otero County.

By agreement of said parties by their attorneys C. A. Gaylord Esq. Solicitor General for appellee, and F. W. Delaney Esq. for appellant, as contained in their stipulation on file, it is ordered by the court that the bill of exceptions, a copy of which is on file in this court certified by the clerk of the district court under date of August 7. 1893, shall be taken and considered as a part of the regularly certified transcript of the record herein, the same as though it had been regularly and properly incorporated in such transcript as it ought to have been.

5?? Lon Fleming, Plaintiff in Error, vs. Nicodemus Chaves, Defendant in Error } Error to Do Ana County.

The cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Fall, reversing the judgment of the court below, and remanding this cause for a new trial for reasons stated in the opinion of the court on file, Chief Justice Prince and Associate Justice Lee concurring and Associate Justice Reed dissenting: It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Do Ana whence this cause came into this court be, and the same hereby is reversed, and that this cause be, and the same hereby is remanded to said District Court with directions to grant a new trial thereof: and it is further considered by the court that the said Lon Fleming do have and recover of the said Nicodemus Chaves his costs in this behalf expended, as well in the court below as in this court to be taxed, and that he have execution therefor.

536 New Mexico & Southern Pacific Railroad Company, Plff in Error, vs. James B. Madden, Dft. in Error } Error to Bernalillo County.

This cause coming on for hearing upon the motion of said

Tenth Day, [illegible] A. D. 1892.

Thirteenth Day. Tuesday. August 15. 1893

Court met pursuant to adjournment.

Present as upon yesterday.

520

Kansas Land Trust Company
vs
John B. Dawson,
Plff. in Error
Deft. in Error

Error to District Court of San Miguel County.

The cause having been argued by counsel and submitted to, and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announce its decision by Associate Justice Lee affirming the judgment of the court below, Associate Justices Hall and Reed concurring, for reasons stated in the opinion of the court on file, Associate Justice Freeman dissenting; it is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of San Miguel whence this cause came into this court be, and the same hereby is affirmed, and that in accordance therewith the said defendant in Error John B. Dawson go hence without day and recover of the said plaintiff in Error his costs in this behalf expended as well in the court below, as in this court, to be taxed, and that he have execution therefor.

539.

The Board of Education of the City of Decatur,
Plff. in Error
vs.
Charles O. Stevenson,
Deft. in Error

Error to the District County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, no attorney appearing for either party to offer oral argument, is taken under advisement by the court.

On motion of D. Alexander Esq. It is ordered by the court that Richmond B. Barnes Esq. an attorney of the Third Judicial District Court of this Territory be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears and takes the oath prescribed by the rules of this court.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Fourteenth Day, Tuesday, August 16th A. D. 1898

Fourteenth Day, Tuesday, August 16th, 1898.

Court met pursuant to adjournment.

Present, the Hon. [illegible]

[illegible]

[illegible]

[

Fifteenth Day, Thursday August 17. 1893

Court meets pursuant to adjournment.

Present, as upon yesterday.

7257

Atchison, Topeka and Santa Fe Railroad Company, Plaintiff in Error
vs
Joaquin Montoya, Defendant in Error

Error to District Court of Bernalillo County.

This cause coming on for hearing upon the transcript of record assignment of errors and briefs of counsel on file, is argued by H. L. Waldo Esq. for plaintiff in error and N. B. Field Esq. for defendant in error and submitted to the court, and the court not being sufficiently advised in the premises, take the same under advisement.

4482

The Territory of New Mexico, Appellee
vs
V. P. Eckl, Appellant.

Appeal from District Court of Bernalillo County.

This cause having been re-argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Chief Justice O'Brien, Associate Justice Freeman concurring, and Associate Justices Reed and Fall dissenting, affirming the judgment of the court below; It is therefore considered and adjudged by the court that the judgment of the District Court in and for the county of Bernalillo, whence this cause came into this court be, and the same hereby is affirmed.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

7

Seventh Day, Friday, August 18, 1893.

Court mets pursuant to adjournment

Present, as upon yesterday

On motion of R. S. Bartlett Esq. It is ordered by the Court that R. S. Young a member of the Bar of the Third Judicial District Court of this Territory be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this Court, and that upon taking in open court, and have the official oath prescribed by the rules of this Court

487

U. S. Division v. Territory, Petitioner,
vs
U. S. Civil Defendant

Petition for Exemption

The judgment of the Court in this case was this day announced and handed down by the Court

Ordered that the Petitioner be and he hereby is granted an exemption from the operation of the Statutes of Limitations of this Territory, as to the Territory of New Mexico, to the full extent authorized by the Act of Congress approved July 4, 1884, entitled "An Act to extend the provisions of the Statutes of Limitations to the Territories of New Mexico and Arizona."

498

Ella Garrity of Dona Ana Petitioner
vs
John D. Keen Defendant

Petition for Exemption

Now came comes on for hearing, upon the petition of record, and proofs of counsel on file, as argued by R. S. Young Esquire for applicant, and A. P. Tweed and R. S. Bartlett Esquires for appellee, and submitted to the Court and the Court not being fully advised, in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Seventeenth Day, Saturday, August 19, 1893.

Court met pursuant to adjournment.

Present, as upon yesterday.

544 George N. Hoicken, Plaintiff in Error
vs
James L. Van Arsdale, Deft. in Error

Error to Santa Fe County.

It is ordered by the court that so much of the judgment in this cause entered of record on the third day of the present term, granting ten per cent damages upon the judgment of the court below, be and the same hereby is set aside and annulled, and altogether held for naught; and it is now considered and adjudged by the court that the said James L. Van Arsdale do hair and recover of the said George N. Hoicken and the sureties upon his supersedeas bond Henry Rosenberg and W. G. Harroun the sum of three hundred dollars the amount of the judgment of the court below with interest thereon at the rate of six per cent per annum from June 16, 1892, together with his costs in this behalf expended, as well in the court below as in this court to be taxed, and that he have execution therefor.

556 Philip Krack Sr. Appellee
vs
Mariana Lucero de Kirchner; and
August Kirchner, Appellants

Appeal from District Court of Santa Fe County.

Said appellants having failed to file in this court a transcript of the record herein within the time prescribed by the statute in such case made and provided, and said appellee having produced and filed such transcript and asked for an affirmance of the decree of the court below the court being now sufficiently advised in the premises, grants said motion. It is therefore considered and adjudged by the court that the decree of the District Court in and for the County of Santa Fe whence this cause came into this court, be and the same hereby is affirmed, and that this cause be, and the same hereby is remanded to said District Court with directions to carry said decree into execution, together with the costs in this court expended.

1187 T. Territory of New Mexico, Appellee
vs.
U. B. Eder Appellant.

Appeal from Bernalillo County.

Now comes the said appellant by J. H. Crist Esq, and petitions to this court here a writ for the period of thirty days of t

Eighteenth Day, Monday, August 21, 1893.

Court met pursuant to adjournment.

Present as upon last Saturday, ~~except Hon. W. H. Pope, Associate Justice.~~

On motion of E.A. Fiske Esq, It is ordered by the court that E.V. Chavez, a member of the bar of the Fifth Judicial District be and he hereby is admitted to practice as an attorney, solicitor and counselor of this court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this court.

On motion of F.B. Catron Esq. It is ordered by the court that David R. Todd, a member of the bar of the First Judicial District Court be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears and takes the official oath prescribed by the rules of this court.

548 The Territory of New Mexico, Appellee
vs
Walter Scott, Appellant.

Appeal from District Court of Socorro County.

This cause coming on for hearing upon the transcript of record, and briefs of counsel on file, is argued by Mr. E.V. Chavez for appellant and E.L. Bartlett Esq, Solicitor-General, for appellee, and submitted to the court. and the court not being sufficiently advised in the premises, takes the same under advisement

549 The Territory of New Mexico, Appellee.
vs
Frank J. Dominguez, Appellant

Appeal from District Court of Chaves County.

This cause coming on for hearing upon the transcript of record assignment of errors, and briefs of counsel on file, is argued by F.W. Clancy Esq. for appellant and E.L. Bartlett Esq, Solicitor-General for appellee, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Nineteenth Day, [illegible] A. D. 1893

Twentieth Day, Wednesday, August 23, 1893.

Court mets pursuant to adjournment.

Present, as upon yesterday.

On motion of B.S. Roby Esq, George N. Johnston a member of the Bar of the Second Judicial District Court, is hereby admitted to practice as an attorney, Solicitor and counselor of this court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this court.

549 E.J. Post & Co., etal, Appellants vs George H. Hicks, Fish, Appellees — Appeal from Bernalillo County.

550 A. L. Staehlin, Appellant vs George H Hicks, etal, Appellees — Appeal from Bernalillo County.

551 The Alvarado Electric Company etal Appellants vs George H. Hicks, etal, Appellees — Appeal from Bernalillo County.

The Attorney that causes coming on for hearing upon the transcripts of record, assignments of error and briefs of counsel on file, and argument of counsel heard together by B.S. Roby and L.A. Hughes Esquires for Appellants and N.B. Field Esquire for Appellees and submitted to the court, and the court not being sufficiently advised in the premises take the same under advisement.

526 Frank Ilfeld and Annie M. Ilfeld vs Barbara Romero, Def't. in Error — Error to Doña Ana County.

The cause coming on for hearing upon motion of defendant in error by her attorney D.K. Newcomb Esq. to affirm the judgment of the court below for reasons set forth in the motion on file, the court being sufficiently advised in the premises grants said motion for reasons stated in the opinion of the court on file; It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Doña Ana whence this cause came into this court be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said District Court with directions to carry said judgment into Execution; and It is further considered by the court that the said Barbara Romero do have and recover of the said Frank Ilfeld and

Annie L Bunte, and the cause upon their motion heretofore heard by both the court and J. J. Conrad for the plaintiff, is now in the court for the fourth, and final decision of the court.

John H. Knauel, Plaintiff in Error
vs
William J. Slaughter, Defendant in Error

The cause coming on to be heard by the court, and taken under advisement by the court after a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bell, Chief Justice O'Brien and Associate Justices Reed and Frenon concurring, it is ordered and adjudged by the court that the judgment of the court below with instructions to set aside the judgment given as to the New Mexico and Southern Pacific Railroad Company. It is therefore considered and adjudged by the court that said motion to dismiss the writ of error herein be, and the same hereby is denied, and that this cause be, and the same hereby is remanded to the District Court in and for the County of Bernalillo where this cause came into this court, with instructions to set aside the judgment in that court in this cause as to the New Mexico and Southern Pacific Railroad Company;

Error to District Court of Bernalillo County

Manuel A. Gutierrez, Simple Gil
and Santana, Plaintiff in Error
vs
Diego M. Otero, Defendant in Error

The cause coming on to be heard by counsel upon the motion of said defendant in error to dismiss the writ of error herein, and due action had thereon, and argument by counsel upon the merits, and the same having been submitted to the court, and the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bell, Chief Justice O'Brien and Associate Justices Reed and Frenon concurring, it is ordered and adjudged by the court that the said motion to dismiss the writ of error herein be, and the same hereby is denied, and that this cause be, and the same hereby is remanded to the District Court in and for the County of Bernalillo where this cause came into this court, with instructions to set aside the judgment in that court in this cause as to the New Mexico and Southern Pacific Railroad Company;

and it is further considered and adjudged by the court that the said New Mexico and Southern Pacific Railroad Company do have and recover of the said James H. Madden its costs in this behalf expended, as well in the court below as in this court to be taxed, and that it have execution therefor.

502. Antonio A. Jaramillo, Etal, Plffs. in Error
vs
James Dalton, Defts. in Error.

Error to District Court of San Miguel County.

Now comes defendant in error by his attorney J. H. McClure Esq, and moves the court for leave to file a transcript of the record of all proceedings in this cause subsequent to the rendition of the judgment contained in the printed transcript heretofore filed by plaintiff in error down to and including the modified judgment filed in this court, and the court being sufficiently advised in the premises grants said motion; It is therefore ordered by the court that said motion be and the same hereby is granted.

225 Charles M. Creamer, Plaintiff in Error
vs
B. Cahn, Defendant in Error.

Error to District Court of Santa Fe County.

The plaintiff in error in this cause having filed in the clerk's office of this court his dismissal of said writ of error, it is considered and adjudged by the court that said defendant in error as to said writ go hence without day, and recover of said Charles M. Creamer and the sureties upon his bond A. S. Schuman &c. & Eckstein ~~and~~ ~~recover~~ his costs in this behalf expended as well in the court below as in this court to be taxed, and that execution issue therefor.

530 Illinois Silver Mining Company, Etal, Plaintiffs in Error
vs
Daniel Shaft, Etal, Defendants in Error

Error to District Court of Grant County.

The cause coming on to be heard upon the transcript of record, argument of counsel on both sides, and due consideration had thereof, it is ordered that same be and hereby is continued until tomorrow morning at 10 o'clock

Ninety First Day, A. D. 159

advised in the premises, announces its decision by Chief Justice O'Brien, Associate Justices Reed, Lee and Hall concurring, affirming the judgment of the court below, for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by this court that the judgment of the District court in and for the County of Socorro in this cause be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said District court with directions to carry said judgment into execution.

574

Patrick H. Kerr, Appellee
vs
Hernando Cano Antonio Etal, Appellants

Appeal from District court of San Miguel County.

On accordance with the stipulation of said parties on file herein it is ordered by the court that appellants may have thirty days from August 1st 1893 in which to file brief, that appellee may have thirty days after he is furnished with a copy of said brief in which to file brief on his behalf, and that appellants may have thirty days after being served with a copy of appellee's brief and not later to file reply thereto.

575

Demetrio Pino, Justice of the Peace, Plaintiff in Error
vs
Pablo Gallegos, et al, Defendants in Error

Error to District court of Santa Fe County.

This cause having been argued, submitted, and submitted to the court for consideration and decision, and the court being sufficiently advised in the premises, announces its decision by Associate Justice Lee Chief Justice O'Brien and Associate Justices Reed concurring, affirming the judgment of the court below, it is therefore considered and adjudged by the court that the judgment of the district court in and for the County of Santa Fe within this cause be and the same hereby is affirmed and that Pablo Gallegos et al to said writ of error pay costs without day.

576

The Board of Education of the City of Socorro, Plaintiff in Error
vs
Charles A. Bohnson Deft. in Error

Error to District court of Socorro County.

This cause having been submitted to, and taken under consideration by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Reed, Chief Justice O'Brien and Associate

Twenty-second Day, Friday, August 25. 1893

Court met pursuant to adjournment.

Present as upon Yesterday.

546 Territory of New Mexico, Appellee vs. Chas. J. Roehn, Appellant — Appeal from District Court of Dona Ana County.

The cause having been argued by counsel, and submitted to, and taken under advisement by the court upon a former day of the present term, the court having now sufficiently advised in the premises, announced its decision by Associate Justice Fall, the Justice Wilson and Associate Justice Lee concurring, Associate Justice Freeman dissenting, reversing the judgment of the court below and remanding the cause with directions to grant a new trial thereof. Et re fracta. Considered and adjudged by the court that the judgment of the District Court in and for the County of Dona Ana in this cause be and the same hereby is reversed, and that this cause be, and the same hereby is remanded to said District Court with directions to grant a new trial thereof.

United States of America, Appellee vs. Chas. J. Roehn, Appellant — Appeal from Second Judicial District Court.

The cause coming on for hearing upon the transcript of record and briefs of counsel on file, was argued by M. B. Field Esq. for Appellant and Geo. Fred Pettis Esq. United States District Attorney for Appellee and submitted to the court and the court having duly considered the same, takes the same under advisement.

208 David Joseph William Lynch and Thomas Lynch, partners in trade doing business under the firm name and style of Lynch & Co. Appellees. vs. George W. Grayson, Nathan Grayson, Archie Bartlett and Willard F. Beckwith, partners doing business under the firm name and style of Grayson & Company Appellants. — Appeal from District Court in and for the County of Dona Ana.

This cause coming on to be argued by counsel, submitted to, taken under advisement, and decided by the Court at a former term of this court, the court now files its finding of facts and orders that judgment be entered affirming the judgment of the Court below. It is

Day, A. D. 189

Twenty-Third Day, Saturday August 26th 1893.

Court mets pursuant to adjournment.

Present, as upon yesterday.

700 Vicente Chavez Etal, Plffs in error, vs. Barbara Chavez de Sanchez, Defft in Error. } Error to District Court of Valencia County.

The cause coming on upon the motion of Plaintiffs in error for a rehearing, filed and taken under advisement day the court at a former term, the court being now sufficiently advised in the premises, doth the same; It is therefore ordered by the court that said motion be, and the same hereby is denied.

5525 Territory of New Mexico, Appellee, vs. James O. Fenlason, Appellant. } Appeal from District Court of Chaves County.

The cause coming on upon the motion of appellant for a rehearing, filed and taken under advisement day the court upon a former day of the present term, the court being now sufficiently advised in the premises, doth the same: It is therefore ordered by the court that said motion be, and the same hereby is denied.

Whereas, E. A. Clancy, Clerk of this court has rendered an account of his fees for services performed at and previous to the present term of court with the items thereof, and in presence of Eugene A. Fiske U.S. Attorney, has sworn on oath, to the satisfaction of the court that the services therein charged to have been actually necessarily performed as therein stated, and also that on the days for which per diem is charged business was actually transacted in court or that court was actually opened for business; and whereas said charges appear to be just and according to law, it is ordered that said account amounting to Two Hundred and fifty one dollars and Seventy cents be and the same is hereby approved.

Whereas, Eugene A. Fiske, United States Attorney has rendered to this court his account for services performed at the present term of this court, with the items thereof, and has sworn on oath to the satisfaction of the court, that the services therein charged for have been actually and necessarily performed as therein stated; And that on each day for which per diem is charged business was actually transacted in court, or court was actually opened for the transaction of business, and whereas said charges

Twenty-third Day, Saturday August 26 A. D. 1893

that

298

Lynch Boathire, Appellee
vs
Grayson and Company, Appellants

Appeal from District Court of Doña Ana County.

Now come the said appellants by their attorney, F. B. Catron Esq. and move the court to grant them an appeal from the judgment and dicision of this court to the Supreme Court of the United States, and the court being fully advised in the premises, grants said motion; It is therefore ordered by the court that the said appellants be, and they hereby are granted an appeal from the decision and judgment of this court to the Supreme Court of the United States; and It is further ordered by the court that upon appellants filing with the Clerk of this court a good and sufficient supersedeas bond in the sum of twelve thousand dollars, to be approved by Hon. E.P. Seeds associate Justice of this court, judgment in this cause be stayed until the decision of the Supreme Court of the United States can be had in the premises; said bond to be filed within sixty days, Exclusive of Sundays, from August 25. 1893, the date of the judgment herein.

297

Clinton, Capitola and Santa Fe Railroad Company, Plff in Error
vs
Joaquin Moartin, Defn in Error

Error to District Court of Bernalillo County.

This cause having been argued by counsel and submitted to, and taken under advisement by the Court upon a previous day of this present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Seeds, affirming the judgment of the Court below, Associate Justices Freeman and Fall concurring, Chief Justice O'Brien dissenting, for reasons stated in the opinion of the Court on file herein and adjudged by the Court

It is the judgment of the District Court in and for the County of Bernalillo where this cause came into this Court by, and the same hereby is reversed, and that this cause be, and the same hereby is remanded to said District Court with directions to grant a new trial thereof; and It is further considered and adjudged by the Court that the said Atchison, Topeka and Santa Fe Railroad Company do have and recover of the said Joaquin Moartin its costs in connection with the suing out of the writ of error herein, as well in the Court below as in this Court, to be taxed, and that it have execution therefor.

4th First Day, [illegible] A. D. 1893

and remanded for entry of judgment in accordance with the opinion of this court.
It is and the same hereby is reversed, and it is further considered adjudged by the court that the said J.M. Mouer do have and recover of the said Jose Montoya his costs in this behalf expended to be taxed, and that Execution issue therefor.

Territory of New Mexico, Appellee
vs.
J. Edward Priest, Appellant

Appeal from District Court of Bernalillo County.

Now comes the said appellee by Her Solicitor-General E.L. Bartlett, and presents to the Court here and files the transcript of record herein, and moves the court to affirm the judgment of the court below, and the court being advised in the premises, grants said motion; It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Bernalillo in this cause be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said court with directions to carry said judgment into execution. And it is further considered and adjudged by the court that the said Territory of New Mexico do have and recover of the said J. Edward Priest her costs in this behalf incurred in this and that she have execution therefor; And the said J. Edward Priest although three times solemnly called, come not but makes default, and it appearing to the court that the said defendant as principal and H.B. Ferguson and Ernest Noyes as sureties entered into a bond into the Territory of New Mexico in the sum of Fifteen Hundred Dollars on the 4th day of November 1891, conditioned for the appearance of the said J. Edward Priest before this court to answer unto plaintiff, on the last Monday of July 1893, and that the should in in attendance thereon from day to day and from term to term and abide the judgment of this court on appeal and should he recover, render himself in execution and pay every order and judgment of this court in the premises, the said H.B. Ferguson and Ernest Noyes are now each three times solemnly called and required to produce the body of said defendant in open court under the penalty of forfeiture of said bonds, but they come not, nor produce his body, but make default, and thereupon the court declares said bonds forfeited; It is therefore considered and adjudged by the court that the said plaintiff the Territory of New Mexico recover of said J. Edwards Priest H.B. Ferguson and Ernest Noyes, the sum of Fifteen Hundred Dollars, the penalty of said bond.

Twenty-Fourth Day, Friday, September 29, 1893

Court meets pursuant to adjournment.

Present, as upon Saturday August 26, 1893, except the Honorable N.B. Lee, A.A. Freeman and A.B. Fall Associate Justices, and Eugene A. Fiske United States District attorney.

It is ordered that Court do now adjourn until tomorrow afternoon at two o'clock.

Twenty-Fifth Day. Saturday, September 30. 1893.

Court meets pursuant to adjournment.

Present, as upon yesterday, [illegible] also Hon. A.A. Freeman, Associate Justice.

Now comes Harry Bodmington an alien, and makes application to be admitted to become a citizen of the United States; and it being made to appear to the satisfaction of the court that more than two years since, the said Harry Bodmington declared on oath before R.M. Johnson Clerk of the First Judicial District Court of New Mexico that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate State or Sovereignty and particularly to Victoria Queen of Great Britain and Ireland, and it being further made to appear to the satisfaction of the court, by the testimony under oath of William White and Charles A. Dorian citizens of the United States that the said Harry Bodmington has resided within the United States five years at least, and within the Territory of New Mexico one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and the said Harry Bodmington declaring that he will support the Constitution of the United States, and that he absolutely and

entirely renounces and abjures all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to Victoria Queen of Great Britain and Ireland and Empress of India. It is ordered by the Court that the said Harry Bohrington be and the same hereby is admitted to become a Citizen of the United States.

No. 481 — The United States of America, Appellee vs. Edward Hugh, Appellant — Appeal from District Court.

Cause submitted to and taken under advisement by the Court upon motion of the Assistant District Attorney, the Court being now sufficiently advised in the premises, it renders its decision in said cause, holding that Section 5440 Revised Statutes of the United States, affirming the judgment of the Court below on the opinion of the Court on file herein, construed, and adopted by the Court that the judgment in the District Court in this cause be affirmed, and that the cause be, and the same hereby is remanded to said District Court with directions to carry said judgment into execution.

No. 549 — The United States of America, Appellee vs. George W. Wells, et al, Appellants — Appeal from Kansas District.

No. 550 — The United States of America, Appellee vs. George W. Wells, et al, Appellants — Appeal from Kansas District.

No. 551 — The United States of America, Appellee vs. George W. Wells, et al, Appellants — Appeal from Kansas District.

The foregoing three causes were argued by counsel together as one cause, and submitted to and taken under advisement by the Court upon motion of the Assistant District Attorney, the Court being now sufficiently advised in the premises, files its decision in said causes, holding that Section 5440 Revised Statutes United States, construed, and adopted by the Court in the opinion of the Court on file herein, construing said three causes to said lower court with instructions to reinstate the same as to the adult defendants, and to further proceed in accordance with the doctrine laid down in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the decree of the District Court

in and for the County of Bernalillo in the foregoing three causes be and the same hereby are reversed, and that that said three causes be and the same hereby are remanded to said District Court with instructions to reinstate the same upon its docket as to the said defendants, and to further proceed in accordance with the doctrine laid down in the opinion of this Court on file; and it is further considered and adjudged by the Court that the said appellants do have and recover of the said appellees their costs in this behalf expended to be taxed, and that execution issue therefor.

527

A. M. Oman, Plaintiff in Error
vs.
United States of America, Deft. in Error

Error to Second Judicial District Court.

This cause having been argued by counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Chief Justice O'Brien, Associate Justices Reed and Freeman concurring, reversing the judgment of the Court below and remanding this cause with directions to grant a new trial thereof; It is therefore considered and adjudged by the Court that the judgment of the District Court of the Second Judicial District of New Mexico be and the same hereby is reversed and that this cause be and the same hereby is remanded to said District Court with directions to grant a new trial thereof.

527

Atchison, Topeka and Santa Fe Railroad Company, D'ff. in Error
vs.
Joaquin Martin, Deft. in Error

Error to District Court of Bernalillo County.

Now come the said defendant in error by his attorney H. B. Fitch, Esq. and moves the Court to modify its judgment entered herein upon a former day of the present term, remanding this cause to the Court below with instructions to grant a new trial thereof, and in lieu thereof, for the purpose of facilitating the bring out of a writ of error by said defendant in error from the Supreme Court of the United States, this Court do now enter final judgment against said defendant in error, and the Court being fully advised in the premises, grants said motion; It is therefore considered and adjudged by the Court that said motion be and the same hereby is granted, and that the judgment of this Court rendered herein upon a former day of the present term, so far as it relates to the remanding of this cause to the Court below with directions to grant a new trial thereof, be set aside and altogether held for naught; that the

Twenty-Sixth Day, Monday, October 2. 1893.

Court met pursuant to adjournment.

Present, as upon Saturday, exclr the Hon. James O'Brien, resigned: also present, Hon. N. D. Lee, Associate Justice.

502. Antonio A. Jaramillo, Attl. Plff. in Error vs James Dolton, Deft. in Error } No 1133 Error to District Court of San Miguel County.

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces the decision by Associate Justice Laughlin, Associate Justices Lee and Freeman concurring, reversing the judgment of the court below and remanding this cause for entry of judgment in accordance with the views expressed in the opinion of this court on file; It is therefore considered and adjudged by the court that the judgment & decree of the District Court in and for the County of San Miguel be, and the same hereby is reversed and that this cause be, and the same hereby is remanded to said court with directions to enter judgment herein in accordance with the views expressed in the opinion of the court; and it is further considered and adjudged that the said plaintiffs in error do have and recover of said defendant in error their costs in this behalf expended, as well in the court below as in this court to be taxed, and that they have execution therefor.

It is ordered by the court that the revision of the rules of the Supreme and District Courts of this Territory prepared and submitted to this court by the Bar Association of New Mexico upon a former day of the present term, be and the same hereby is adopted as the rules for the government of practice in this, and the District Courts of this Territory, said rules to be in force and take effect on and after the second day of November, 1893.

The United States of America, } ss
Territory of New Mexico, } ss

To the Supreme Court of the United States of the Ninth Judicial District of the Territory of New Mexico, and the Honorable, the Justices thereof, Greeting: Whereas, by the Constitution and laws of the United States, it is provided that writs of commission be issued upon the decrees of this court, which is accordingly done in words and figures following, to wit:

Grover Cleveland
President of the United States of America
To all who shall see these presents greeting:-
Know ye, That reposing special trust and confidence in the

bears N. 60 E. and Pinturas mountain bears N. 6 W.; thence N. 87 30 W. 300 feet to the northwest corner, a stake in a monument of stones, which corner is in the intersection of Illinois mine, with the Bush Road Home; thence S. 45 27 E. 1000 feet along side line of Illinois mine to southwest corner, a stake in a monument of stones; thence S. 87 30 E. 100 feet to S. E. corner, a stake in a monument of stones; thence N. 31 W. 825 feet to a stake in a monument of stones; thence N. 45 27 W. 106 feet to the north east corner, a stake in a monument of stones, whence Pincha Peak bears N. 65 E. thence N. 87 30 W. 300 feet to north end center, or place of beginning, and that they have a mark of possession therefor: and it is further considered and adjudged by the Court that the said defendants in error do have and recover of the said plaintiffs in error their costs in this behalf expended as well in the Court below as in this Court to be taxed, together with the sum of one dollar the amount of their damages assessed by the jury in the Court below, and, that they have execution therefor.

Whereas E.A. Hall, United States Marshal has rendered to this Court an account of his fees and disbursements at the July term 1892 at Santa Fe of the United States Supreme Court, with the vouchers and items thereof, and in favor of J. B. H. Hemingway United States Attorney, his sworn oath to the satisfaction of the Court, that the services and travel therein charged have been actually and necessarily performed as therein stated, and that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to eighty nine dollars be and the same is hereby approved.

Whereas H. D. Slaney Clerk of this Court has rendered an account of his fees for services performed at the present term of Court with the items thereof, and in favor of J. B. H. Hemingway U. S. Attorney, has sworn to oath to the satisfaction of the Court that the services therein charged to have been actually and necessarily performed as therein stated, and that on the days for which per diem is charged business was actually transacted in Court, or that Court was actually opened for business; and whereas said charges appear to be just and according to law, It is ordered that said account amounting to Thirty Eight dollars and forty cents be and the same is hereby approved.

It is ordered by the Court that the following allowances, to be paid out of the Territory of New Mexico be and the same hereby are made:

H. D. Slaney, Clerk, 3 days. 12.00

New Mexican Printing Company, Printing Rules of Supreme Court 23.30

... day, Monday, October 2, A. D. 1893.

Atlantic and Pacific Railroad Company
Plaintiff in Error

vs.

Robert Mongue, Defendant in Error

Error to District Ct. of Dona Ana County

This cause having been argued by counsel, on motion it is ordered to and taken under advisement by the Court until the first day of the present term, the Court then to announce the day when the decision thereof will be announced in the premises [illegible]

Chief Justice Fall, Associate Justice Freeman concurring, affirming the judgment of the Court below. Associate Justice O'Brien not sitting. [illegible]

[illegible] the Court on file. It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Dona Ana where the cause came into this Court be and the same hereby is affirmed and that in accordance therewith the said District Court proceed to hear without day and return of the said Atlantic and Pacific Railroad Company the costs in this behalf expended, as well in the said District Court as in this Court to be taxed and that the same execution therefor.

It is ordered that [illegible] other proceedings not otherwise disposed of be, and the same hereby are continued until the next term of this Court.

It is ordered that Court do now adjourn sine die.

Edward P. Seeds. Associate Justice
Albert B. Fall Associate Justice
Associate Justice.

Day. A. D. 189

At Santa Fe New Mexico, Novmber 4th 1893

Now comes Honorable Thomas Smith and exhibits at the office of the Clerk of this Court his commission and oath of office as Chief Justice of this Court, which said commission and oath of office are in the words and figures following, to wit

Grover Cleveland.

President of the United States of America.

To all who shall see these Presents:

Greeting: Know ye, that reposing special trust and confidence in the wisdom, uprightness and learning of Thomas Smith, of Virginia, I have nominated, and by and with the advice and consent of the Senate, do appoint him Chief Justice of the Supreme Court of the Territory of New Mexico, and do authorize and empower him to execute and fulfil the duties of that office according to the Constitution and Laws of the said United States, and to have and to hold the said office with all the fours, privileges and emoluments to the same of right appertaining unto him the said Thomas Smith, for the term of four years from the day of the date hereof, subject to the conditions and provisions prescribed by law.

In testimony whereof I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Seal of Department of Justice

Given under my hand at the City of Washington, the 5th day of October, in the year of our Lord one thousand eight hundred and ninety-three, and of the Independence of the United States of America the one hundred and eighteenth.

By the President.

Grover Cleveland

Lawrence Maxwell Jr.

Acting Attorney General.

Oath of Office.

Territory of New Mexico } ss.

County of Santa Fe }

I, Thomas Smith,

Day A. D. 189

do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same, that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office of Chief Justice of the Supreme Court of the Territory of New Mexico, on which I am about to enter. So help me God.

Thomas Smith.

Subscribed and sworn to before me this fourth day of November, A.D. 1893

Seal

Lorin Miller
Secretary of the Territory of New Mexico.

Santa Fe, New Mexico, December 1st 1893.

A certified copy of the commission and oath of office of Neadham C. Collier as Associate Justice of this Court was on this day handed to the Clerk of this Court which said commission and oath of office are in the words and figures following to wit:-

Grover Cleveland,
President of the United States of America
To all who shall see these Presents, Greeting:

Know ye, that reposing special trust and confidence in the wisdom, uprightness and learning of Neadham C. Collier of New Mexico Territory, I have nominated, and with the advice and consent of the Senate do appoint him Associate Justice of the Supreme Court of the Territory of New Mexico and do authorize and empower him to execute and fulfil the duties of that office according to the Constitution and laws of the said United States and to have and to hold the said office with all the powers privileges and emoluments to the same of right pertaining unto him, the said Neadham C. Collier for the term of four years from the day of the date hereof subject to the conditions and provisions prescribed by law.

In Testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed. Given under my

Day. A. D. 189

hand at the City of Washington the first day of November in the year of Our Lord one thousand eight hundreds and ninety three and of the independence of the United States of America the one hundred and eighteenth.

(Seal By the President: Grover Cleveland

Richard Olney, Attorney General.

Territory of New Mexico } ss.
County of Bernalillo }

I, Nedham B. Collier of the County of Bernalillo and Territory of New Mexico do solemnly swear that I will administer justice without respect to persons and do equal rights to the poor and to the rich and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as Associate Justice of the Supreme Court of the Territory of New Mexico according to the best of my abilities and understanding, agreeably to the Constitution of the United States. So Help me God. And I, the said Nedham B. Collier do solemnly swear that I will support the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of Associate Justice of the Supreme Court of the Territory of New Mexico on which I am about to enter. So Help me God.

Nedham B. Collier

Subscribed and sworn to before me this 11th day of November, 1893.

Henry Lockhart, J. P.

Territory of New Mexico } ss.
County of Bernalillo }

I, H. W. Harris, Clerk Probate Court and Ex-Officio Recorder in and for said County in the Territory aforesaid, hereby certify that Henry Lockhart, Esq, is a Justice of the Peace in and for said County, elected and qualified, that his commission was dated on the 14th day of January, A. D. 1893, and will expire on the 1st day of February 1895.

Given under my hand and official seal this 11th day of November A. D. 1893.

(Seal) H. W. Harris, Probate Clerk and Ex-officio Recorder.

I, Chas. F. Hunt, Clerk of the Second Judicial District Court of the Territory of New Mexico do hereby certify that the forgoing is a true and correct copy of the commission and oath of office of Hon. N. B. Collier as Associate Justice of the Supreme Court of the Territory of New Mexico filed in my office this 11th day of November, A. D 1893.

Chas. F. Hunt, Clerk

Territory of New Mexico } ss.
Second Judicial District }

I, O. N. Marron, Clerk of the District Court of the Second Judicial District, do hereby certify that the foregoing pages one, two and three, are true extracts from the records of the said District Court in Book marked Chambers Record, 2nd Judicial District at pages 388 and 389 inclusive.

Witness my hand and the seal of said court this 13th day of November, A. D. 1893.

(Seal) Oran N. Marron, Clerk

Day. A. D. 189

Santa Fe, N.M. November 14. 1893.

578

In Re application of William J. Cunningham for a writ of Prohibition.

Upon reading the foregoing and above motion and affidavit of William J. Cunningham, and it appearing to the undersigned Nudham & Collier Associate Justices of the Supreme Court of the Territory of New Mexico, in vacation of the said Supreme Court, that sufficient cause appears therefor, it is hereby ordered that a writ of Prohibition issue out of the Supreme Court of the Territory of New Mexico, under the seal thereof, directed to the Board of County Commissioners of the County of Santa Fe and Territory of New Mexico, and, to A. Gonzales, Handall Charles M. Judrew and Victor Ortega, members of said Board of County Commissioners, commanding the said Board, and the said members thereof respectively, to desist and refrain from any other or further proceedings in the matters mentioned and specified in the order and citation of the said Board made and entered on November 4th, 1893, and directed, to the said William P. Cunningham, as Sheriff and Ex-officio Collector of taxes and licenses of the County of Santa Fe, November, and ordering and citing him to be and appear before the said Board, at the Court house of the County of Santa Fe, to be held on the 13th day of November A.D. 1893, then and there to show cause why the said office shall not be declared forfeited and vacant; and from further proceeding in any manner to declare forfeited and vacant the said office of Sheriff and Collector of said County, for the causes set forth in the order and citation aforesaid, until the next term of the Supreme Court in the Territory of New Mexico to be begun and held on the last Monday in the month of July A.D. 1894, or until the further order of the said Supreme Court thereon; and to show cause at the said term of the said Supreme Court why the said Board and said members thereof, shall not be absolutely restrained from any further proceedings in the said matter of declaring the said office of Sheriff and said Ex-officio Collector forfeited and vacant for the causes set forth in the order and citation of said Board entered and dated November 4th A.D. 1893, in accordance with the said motion & affidavit.

Albuquerque, N.M.
Nov. 13th 1893.

Nudham & Collier
Associate Justices Supreme
Court of New Mexico.

Dorf. A. D. 189

Santa Fe, N. M. January 27, 1894

561

In Re application of The Lincoln-Lucky & Lee Mining Company for a writ of prohibition.

Upon reading the annexed and foregoing application of the Lincoln-Lucky & Lee Mining Company upon affidavit by motion to the undersigned, a judge of said Supreme Court, in vacation thereof, and the cause therefor shown appearing to the undersigned to be sufficient, it is hereby ordered that said application be sustained and that a writ of prohibition issue in accordance therewith out of the Supreme Court of the Territory of New Mexico, which shall command the District Court of the First Judicial District of the Territory of New Mexico, sitting at Santa Fé, under and in pursuance of the laws of the United States and of this Territory for the investigation and trial of causes arising under the laws of the United States, at any term thereof being held or to be held in pursuance of the order of the judges of the Supreme Court of said Territory fixing the same, and Honorable E. P. Seeds judge of the First Judicial District of this Territory, to desist and refrain from any other proceedings in the action wherein A. M. Hendry Etal are plaintiffs, and the Lincoln-Lucky & Lee Mining Company is defendant, in ejectment, now pending upon the docket of said court, until the next term of the Supreme Court of the Territory of New Mexico, or until the further order of the said Supreme Court therein; and to show cause on the first day of the next term of the Supreme Court of the Territory of New Mexico, to be begun and held on the last Monday in July, 1894, why they the said District Court of the First Judicial District, sitting at Santa Fé as aforesaid, and the judge of said court, shall not be absolutely enjoined from any further proceedings in the said action.

Albert B. Fall, Associate Justice of the Supreme Court of the Territory of New Mexico, acting in vacation of said court.

It is hereby ordered and directed that the writ of prohibition named in the foregoing order be served by the Marshal of the United States for the Territory of New Mexico, by reading and delivering a copy of the said writ to the Clerk of the District Court within and for the First Judicial District of the Territory of New Mexico, and by delivering a copy of the said writ to Hon. E. P. Seeds, Judge of said Court.

Albert B. Fall, Associate Justice of the Supreme Court of the Territory of New Mexico in vacation.

Day, A. D. 189

[illegible]

[illegible]

[illegible] motion of [illegible] the [illegible] day of [illegible] instant, and after hearing the counsel of the said adverse party, it is ordered that the petition filed [illegible] day of [illegible] instant be and the same is hereby granted, and that the said petitioner, [illegible] be admitted to practice as an attorney and counselor at law in all the courts of this State.

By the Court,

[illegible]
Clerk.

First Day, Monday, ~~August~~ 30 A.D. 1894

At a regular term of the Supreme Court of the Territory of New Mexico, begun and held at Santa Fe, New Mexico, the seat of government of said Territory, on the last Monday of July, A.D. 1894, the same being Monday, July 30, 1894.

Present:-

The Honorable Thomas Smith, Chief Justice,
The Honorable N. B. Laughlin, Associate Justice
The Honorable N. C. Collier, Associate Justice
The Honorable A. B. Fall, Associate Justice.
E. L. Hall, United States Marshal for New Mexico
F. B. McManigal, United States Marshal for New Mexico
R. L. Ramsey, Solicitor.

It is ordered by the Court that Marino Martin and Jose Luis y Baca be and they hereby are appointed as bailiffs to the Court, and they thereupon appear and are duly sworn as such.

On motion of E. A. Fiske Esq. It is ordered by the Court that S. B. Sutherlin, a member of the bar of the First Judicial District be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court and takes the oath prescribed by the rules of this court

On motion of E. A. Fiske Esq. It is ordered by the court that A. B. Renehan, a member of the bar of the First Judicial District be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court and takes the oath prescribed by the rules of this court.

On motion of Charles H. Silderslieve Esq. It is ordered by the Court that Eusebio Chacon, a member of the bar of the Third Judicial District of the State of Colorado, (the said Chacon furnishing to the court satisfactory proof that he is entitled to be admitted to practice at this bar, and the said Silderslieve certifying to the good moral character of said Chacon) be and he hereby is admitted to practice as an attorney, solicitor and counselor of this court, and he thereupon appears in open court, and takes the oath prescribed by the rules of this court.

Tenth Day, Monday, August July 30 A. D. 1894.

420 Edward D. Bullard, Plff in Error
vs.
Lorenzo Lopez, Assignee, Defft in Error
Error to District Court of San Miguel County

554 Patrick J. Ford, Appellee
vs.
Springer Land Association etal, Appellants
Appeal from District Court of Colfax County.

567 The Oak Grove and Sierra Verde Cattle Co. Plff in Error
vs.
E. L. Foster, Receiver.
Error to District Court of Grant County.

On motion of defendant in error Lorenzo Lopez, Appl. Facto Springer Land Association Etal, and plaintiff in error The Oak Grove and Sierra Verde Cattle Company, by their respective attorneys, It is ordered by the court that the foregoing three causes be set for hearing upon August 16. 1894.

555 Marshall Field & Co. etal, Plffs in Error
vs.
M. Romero, etal, Defts. in Error.
Error to District Court of San Miguel County.

On motion of said plaintiffs in error, It is ordered by the court that this cause be, and the same hereby is set for hearing upon August 6. 1894.

571 Pedro Gallegos, etal, Appellants.
vs.
Franz Henning, Etal, Appellees
Appeal from District Court of Bernalillo Co.

On motion of E. B. Field Esq. solicitor for Franz Henning upon this cross appeal, It is ordered by the court that he have ten days from this day in which to file his assignments of errors herein.

584 First National Bank of Albuquerque Etal
Appellees
vs.
John A. Lee, Executor, Etal, Appellants
Appeal from District Court of Bernalillo County.

On motion of said appellants by their attorneys, It is ordered by the court that they have ten days from today in which to file their assignments of error herein.

547 Charles M. Conklin, Plff. in Error
vs.
William C. Cunningham,
Error to District Court of Santa Fe County.

First Day. Monday, July 30 A.D. 1894

552 William P. Cunningham, Appellee
vs
Charles M. Conklin, appellant
Appeal from District Court of Santa Fe County

553 Charles M. Conklin, Appellant
vs
William P. Cunningham, Appellee
Appeal from District Courts of Santa Fe County.

On motion of the said plaintiff in error and appellant Charles M. Conklin, by his attorney E. L. Bartlett Esq. It is ordered by the court that he be and he hereby is permitted to file typewritten briefs herein.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Second Day Tuesday, July 31. 1894.

Court meets pursuant to adjournment.

Present as upon yesterday, and also Hon. A.A. Freeman, Associate Justice

760 Norman L. Raff, Plff. in Error
vs
P. A. Williamson, Executor, Deft. in Error
Error to District Court of Bernalillo County.

Now comes the said defendant in error by his attorney M. B. Field Esq. and moves the court to dismiss said writ of error and said motion not being resisted by said plaintiff in error by his counsel H. B. Childers Esq. the court grants the same: It is therefore considered and adjudged by the court that the said writ of error be and the same hereby is dismissed, and that the said P. A. Williamson Executor as to the same go hence without day, and recover of the said Norman L. Raff his costs in this behalf expended to be taxed, and that execution issue therefor.

764 Daniel D. Gracia, Plff. in Error.
vs
Joseph F. Eaton, Total, Defts. in Error
Error to District Court of Socorro County.

Now comes the said plaintiff in error by his attorney H. B. Childers Esq. and says to the court here

that he will not further prosecute his said writ of error, but desires the same. It is therefore considered and adjudged by the court that said writ of error &c, and the same hereby is dismissed and that the said defendants in error recover of plaintiff in error their costs in this behalf expended to be taxed, and that execution issue therefor.

540 Pacific Coast Company vs William Mowbrey, Etal — Error to District Court of Eddy County.

By agreement of said parties, as by their stipulation on file. It is ordered by the court that this cause be, and the same hereby is continued until the next term of this court.

544 A. M. Bantista vs Elliott Brosan, Etal — Error to District Court of Bernalillo County.

By agreement of said parties by their respective attorneys, It is ordered by the court that this cause be, and the same hereby is set for hearing upon August 2d. 1894.

562 Exchange Bank of Dallas vs Nora B. Field and the Atchison, Topeka & Santa Fe R. R. Company, Garnishees — Garnishment under Execution.

On motion of said garnishee railroad company, by its attorney R. E. Critchen Esq. It is ordered by the court that said garnishee have fifteen days from today in which to file its answers to the interrogatories filed herein.

573 The United States of America vs D. M. Folsom — Appeal from District Court of Bernalillo County

By agreement of counsel, It is ordered by the court that this cause be, and the same hereby is set for hearing upon August 2d. 1894.

576. The Territory of New Mexico vs Rafolito Armijo, Appellant — Appeal from District Court of Sierra County

By agreement of counsel, It is ordered by the court that this cause be, and the same hereby is set for hearing upon August 8. 1894.

It is ordered that the court do now adjourn until tomorrow morning at ten o'clock.

Third Day, Wednesday, August 1. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

In the matter of H. D. Clancy } Contempt Proceedings.
5884. Clerk of this Court.

Upon motion of H. L. Warren Esq. an attorney of this court, It is ordered by the court that the said H. D. Clancy be, and he hereby is ruled to show cause upon August 9. 1894. why he should not be punished for a contempt of this court.

Charles M. Conklin, Plff. in Error } Error to District Court
5447 vs. } of Santa Fe County.
William B. Cunningham, Defft. in Error

William B. Cunningham, Appellee } Appeal from District
5527 vs. } Court of Santa Fe County.
Charles M. Conklin, Appellant

Charles M. Conklin, Appellant. } Appeal from District
553. vs. } Court of Santa Fe County.
William B. Cunningham, Appellee

Upon motion of said appellant and plaintiff in error Charles M. Conklin by his attorney E. L. Bartlett Esq. It is ordered by the court that the foregoing three causes be, and they hereby are set for hearing upon August 10. 1894.

United States of America, } Appeal from Third
Appellee } Judicial District Court.
4444 vs.
Santa Cruz Valdez, Appellant.

United States of America, Appellee. } Appeal from Third
451. vs. } Judicial District Court.
Andres Gonzales, Appellant.

These causes coming on to be heard upon the motion of said appellees to dismiss said appeals, and the court having heard said motion and the arguments of Counsel and being sufficiently advised in the premises denies the same. It is therefore ordered by the court that said motion be and the same hereby is denied. It now appearing to the court here that at its last regular term this court denied a like motion to dismiss (made at said term by appellee) upon the grounds that

said appellant had filed in this Court a transcript of records together with a bill of exceptions, containing all the evidence in this case and that duly complied with the law and rules of this Court in taking and perfecting said appeal, and that the said record and all other papers in the case had been lost or destroyed without the neglect, procurement or default of said appellants And it further appearing that this court at said last term made an order directing the United States Marshal to open the vault of the Supreme Court room at the Capitol building at Santa Fe, which building had been destroyed by fire to ascertain whether or not said papers together with others in said vault had been destroyed, and in case they had not been destroyed to deliver them to the Clerk of this Court. And it further appearing that said Marshal has failed to comply with said order to open said vault for the reason that the United States Department of Justice has declined to bear the expense of opening said vault. It is now therefore further ordered by the Court, that these cases be continued until the next regular term of this Court; and it is further ordered that unless the appellee produce and have before this Court at the next ensuing term thereof the transcript of the record and bill of exceptions in these cases the original cause of action in the court below will be dismissed.

Thomas Smith, Chief Justice.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Fourth Day, Thursday August 2nd 1894

Court meets pursuant to adjournment.

Present, as upon yesterday.

574

John G. Albright, Etal appellees
vs.
Texas Santa Fe and Northern Railroad Co., Etal
} appeal from District Court of Bernalillo County.

Now come the said appellants Lehman Spiegelberg and Bernard Seligman by Eugene A. Fiske Esq. their solicitor and suggest a diminution of the record herein and move the court to order the issuance of a writ of certiorari to the District Court in and for the County of Bernalillo commanding it to forthwith transmit to this Court a true copy and transcript of the order of said court overruling the demurrer of said appellants to the original bill of complaint, and the court being sufficiently advised in the premises, grants said motion: It is therefore ordered by the court that said motion be and the same hereby is granted, and that said writ issue as prayed for

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Fifth Day, Friday, August 3. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

575

John G. Blancy, appellant
vs.
John G. Blancy, Administrator, Etal Appellees
} appeal from District Court of San Miguel County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by G.D.W. Veeder Esq. for said appellant, and by L. Emmett Esq. for Elizabeth G. V. Fairbank, William S. Fairbank and Alice V Fairbank, and is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement: and the motion of said Emmett to dismiss said appeal is also argued & taken under advisement

588 Territory of New Mexico
vs.
Robert McFarlane, Appellant

Appeal from District Court of Socorro County.

591 Territory of New Mexico
vs.
James Barrett, Appellant

Appeal from District Court of Lincoln County.

Upon motion of said appellee by their Solicitor General L. G. Bartlett Esq. It is ordered by the court that the foregoing two causes be, and they hereby are set for hearing upon August 13. 1894, and that said appellant Robert McFarlane file his brief herein on or before August 8, 1894.

It is ordered that court do now adjourn until next Monday morning at ten oclock.

Sixth Day. Monday, August 6. 1894.

Court meets pursuant to adjournment.

Present, as upon last Friday.

455 Marshall Field & Co. Etal Plffs. in Error
vs.
M. Romero & Co. Etal, Defts. in Error

Error to District Court of San Miguel County.

It is ordered by the court that this cause die, and the same hereby is set for hearing at the foot of the calendar. August 24, 1894

574 John H. Albright, Etal, Appellees
vs.
Texas, Santa Fe and Northern Rail-road Company, Etal, Appellants.

Appeal from District Court of Bernalillo County.

On motion of said appellants by their Solicitor E. A. Fiske Esq. It is ordered by the court that they be and hereby are given until on or before August 11. 1894. in which to file their brief herein.

Now comes H. L. Pickett Esq, an attorney, Solicitor and Counsellor of this court, and moves the court to admit J. W. Garner, as member of the bar of the Fifth Judicial District of this Territory to practice as an attorney, Solicitor and Counsellor of this court.

and the court being sufficiently advised in the premises, grants said motion, and the said J. H. Garner appears in open court and takes the oath prescribed by the rules of this court.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thos. A. Smith
Chief Justice

Seventh Day, Tuesday, August 7th 1894

Court meets pursuant to adjournment.

Present, as upon yesterday.

On motion of W. H. Whiteman Esq, It is ordered by the court the W. E. Kelly Esq, a member of the bar of the Fifth Judicial District, be and he hereby is admitted to practice as an attorney, solicitor and counselor of this court, and he thereupon appears in open court and takes the oath prescribed by the rules of this court.

On motion of E. A. Fiske Esq, It is ordered by the court that George P. Money, a member of the bar of the First Judicial District, be and he hereby is admitted to practice as an attorney solicitor and counselor of this court, and he thereupon appears in open court and takes the oath prescribed by the rules of this court.

559

The Mesilla Valley Publishing Company, Plaintiff in Error

vs.

Adelbert D. Webb, Defendant in Error

Error to District Court of Doña Ana County.

It appearing that there has been no transcript of record filed in the office of the clerk of this court, It is now considered and adjudged by the court that this cause be and the same hereby is dismissed, and that the judgment of the court below be affirmed: and that mandate issue to said District Court in accordance with this judgment: It is further considered and adjudged that the said defendant in error do have and recover of said plaintiff in error his costs in this behalf expended, as well in the court below as in this court, to be taxed, and that execution issue therefor.

Twenty Day, Tuesday, August 7th A. D. 1894

576

Adolph Stamm, Plff in Error
vs
Herbert H Smith, Deft in Error

Error to District Court of Dona Ana County.

By agreement of said parties it is ordered by the court that this cause be and the same hereby is continued until the next term of this court, and that the same be set for hearing upon the fourth day of said next term.

It is ordered that Court do now adjourn until tomorrow morning at ten oclock

Thomas Smith
Chief Justice

Eighth Day. Wednesday, August 8. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

575

Territory of New Mexico. Appellee
vs
Nepolito Armijo, Appellant.

Appeal from District Court of Sierra County

This cause coming on for hearing upon the transcript of record and brief of counsel on file. It is argued by E. L. Bartlett Esq. Solicitor General for said Appellee and A. B. Elliott Esq. for said Appellant, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Ninth Day, Thursday, August 9, 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

558 In the matter of the application of William O. Cunningham — For writ of Prohibition.

561 In the matter of the application of Lincoln County and Low Mining Company — For writ of Prohibition.

The foregoing two causes coming for hearing upon the motion of said relators for the issuance of an absolute writ of prohibition in accordance with the terms of the writs heretofore issued herein, is argued by H. B. Warren Esq. for said relators, and by J. B. Catron and E. L. Bartlett Esquires as friends of the Court and submitted to the Court, and the Court not being fully advised in the premises, takes said motions under advisement.

563 Nelson P. Eaton, Plff. in Error vs. E. L. Browne, Treasurer, Dfft. in Error — Error to District Court of Socorro County.

By agreement of said parties by their respective Counsel, this cause is submitted to the Court without oral argument, and upon the transcript of record and briefs on file herein.

587 In the matter of H. J. Blaney Clerk of this Court. — Contempt Proceedings.

Now comes the said respondent by his counsel Neill B. Field Esq, and makes return to the rule heretofore issued against him; and thereupon the Court appoints H. B. Warren Esq, to prosecute said rule, and upon motion of said respondent, the said Warren is directed to file interrogatories touching the matters complained of herein on or before August 13, 1894.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Thomas Smith
Chief Justice

Tenth Day. Friday. August 10. 1894

Court meets pursuant to adjournment.

Present, as upon yesterday.

165 Jose D. Gallegos. Plff. in Error
vs.
The Territory of New Mexico

Error to District Court of Don Miguel County.

On motion of said defendant in error by her Solicitor General E. A. Bartlett Esq. It is ordered by the Court that the writ of error herein be and the same hereby is dismissed, and that the said Territory of New Mexico do have and recover of the said Jose D. Gallegos her costs in this behalf expended to be taxed, and that execution issue therefor.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Eleventh Day. Saturday. August 11. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday

552 William G. Cunningham, Appellee.
vs.
Charles M. Conklin, Appellant

Appeal from District Court of Santa Fe County

Upon motion of appellee, by her solicitor H. L. Warren, said motion not being resisted by said appellant. It is ordered and adjudged by the Court that the appeal herein be, and the same hereby is dismissed, and that said appellant pay all costs herein to be taxed, and that execution issue therefor.

Eleventh Day, Saturday, August 11 A. D. 1894

5745

John H. Clancey, Appellant
vs.
John H. Clancey Administrator Etal

Appeal from District Court of San Miguel County.

This cause having been argued by counsel and submitted to, and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Freeman, Chief Justice Smith and Associate Justice Fall concurring, denying the motion to dismiss the appeal herein and affirming the decree of the court below, for reasons set forth in their opinion on file, Associate Justices Loughlin and Collier dissenting for reasons set forth in their opinion on file; It is therefore considered and adjudged by the court that said motion be, and the same hereby is denied, and that the judgment and decree of the District Court in and for the County of San Miguel whence this cause came into this court be and the same hereby is affirmed, and that this cause be, and the same hereby is remanded to said District Court with directions to carry said judgment and decree into effect, and It is further considered and adjudged by the court that the said John H. Clancey, appellant pay all costs accrued herein, as well in the Court below as in this court, to be taxed, and that execution issue therefor.

It is ordered that Court do now adjourn until next Monday morning at ten o'clock

Thomas Smith
Chief Justice

Fourth Day, Monday August 13. 1894

Court met pursuant to adjournment.

Present as when Saturday last.

Commonwealth, Ex rel, Appellants
vs
Commissioners, Etc, Appellees

Appeal from District Court of Dawson County.

Now argument of said cause by their respective attorneys, this cause is submitted to the Court upon the briefs on file herein, together with the transcript of record, whereupon argument, and the Court not being sufficiently advised in the premises, takes said cause under advisement.

Territory of New Mexico, Appellee,
vs
James Court, Appellant, Appellant

Appeal from District Court of Lincoln County.

Now comes the said appellant by his counsel E. A. Garrett Esq. no one appearing for appellee, and submits this cause to the Court upon the transcript of record herein, and the Court not being sufficiently advised in the premises, takes the same under advisement.

On motion of N. B. Field Esq. It is ordered by the Court that Thomas N. Mulkeen, a member of the bar of this 2nd judicial district Court be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court, and takes the oath prescribed by the rules of this court.

On motion of N. B. Childers Esq. It is ordered by the Court that Louis H. Lemoir, a member of the bar of the Third Judicial District Court be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court

and the thereupon appears in open court and takes the oath prescribed by the rules of this court.

544 Charles M. Conklin, Plff. in Error
vs.
William P. Cunningham, Defr. in Error
} Error to District Court of Santa Fe County.

The cause coming on for hearing upon the transcript of record and briefs of counsel on file, is argued by C.A. Spiess and E. L. Bartlett Esquires for plaintiff in error and H. L. Warren Esquire for defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

545 John G. Blaney, appellant
vs.
John G. Blaney, Administrator, Etal
} Appeal from District Court of San Miguel County.

Now comes the C. S. Spiess Co, in behalf of J. W. Veeder Esq, solicitor for said appellant, and gives notice of a motion for a re-hearing herein.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Thomas Smith
Chief Justice

Thirteenth Day, Tuesday, August 14th, 1894

Court meets pursuant to adjournment.

Present, as upon yesterday.

537 Demetrio Perez, Plff. in Error
vs.
P. J. Barber, Defr. in Error
} Error to District Court of Santa Fe County.

The cause coming on for hearing upon the motion of said plaintiff in error for a rehearing of this cause, the Court being now sufficiently advised in the premises, grants said motion, and by agreement of counsel, It is ordered by the Court that this cause be submitted on briefs hereafter without oral argument

Day, [illegible] A. D. 19[illegible]

[illegible]

[illegible]

Thirteenth Day. Tuesday. August 14th. A. D. 1894

587

In the matter of H. D. Clancy } Contempt Proceedings
Clerk of this court.

This proceeding coming on for hearing upon the interrogatories propounded to respondent and the responses thereto, is argued by H. L. Warren Esq. heretofore appointed by the court to prosecute herein and by H. B. Field Esq. for said respondent, and submitted to the court and the court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock

Thos. Smith
Chief Justice

Fourteenth Day. Wednesday. August 15. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

The Loyndonville National Bank, Plff. in Error } Error to District Court
vs } of Bernalillo County.
569
D. Mc. Folsom. Deft in Error

This cause coming on for hearing upon the transcript of record, assignment of error, and briefs of counsel on file, is argued by A. B. McMillen Esq. for plaintiff in error, and F. W. Clancy and Theo. N. Wilkerson for defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement

It is ordered that court do now adjourn until tomorrow morning at ten o'clock

Thos. Smith
Chief Justice

Sixtieth Day. Thursday, August 20. 1891.

Court met pursuant to adjournment.

Present as upon yesterday.

In the matter of A. G. Standau, Plaintiff in Error
Isidoro Ortiga, Master of the
Board of County Commissioners of the County
of Cato, Et.

Error to Cato County

It is ordered by the Court that a writ do issue this day in course where the said A. G. Standau, Plaintiff in Error vs Isidoro Ortiga, to show cause before this Court on the day August 20. 1891. why the writ not be dismissed as for a contempt of the Court.

H20

Edward A. Ewart, Plff. in Error
vs
George W. Ogden, Deft. in Error

Error to District Court of San Miguel County

The cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, to be argued by Frank Springer Esq. for plaintiff in error and S. B. Eaton Esq. for defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

Dft's

John M. Crofford, Receiver, Plff. in Error,
vs
Montague Stevens, Et al, Deft. in Error

Error to District Court of Eaton County

The cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, to be argued by N. B. Childers Esq. for plaintiff in error and submitted to the court, and the court not being fully advised in the premises, takes the same under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Sixteenth Day. Friday, August 17. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

579 Charles Bent, Etal, Appellants — Appeal from District Court of Colfax County.
vs
Guadalupe Miranda, Etal

581 The Kearney Land Grant and Road Co. — Appeal from District Court of Colfax County.
vs
Guadalupe Thompson, Etal, Appellants

On accordance with the stipulation of the parties to the foregoing two causes on file, It is ordered by the court that the said appellants may have ninety days from the time the rules of this court require briefs to be filed on the part of appellants, in which to prepare and file their briefs in said causes, and that said appellees may have a like extension for the preparation and filing of their briefs in the said causes from the expiration of the ninety days herein allowed for the filing of briefs by appellants

577 Patrick F Ford, Appellee, — Appeal from District Court of Colfax County.
vs
Singer Land Association Etal, Appellants

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by E.L Young, Esquire and A A Somes Esquires for appellants, and J. F. Voorhees Esquire for appellee, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that court do now adjourn until next Monday morning at ten o'clock.

Thomas Smith
Chief Justice

Fourteenth Day. Monday, August 26. 1894

Court met pursuant to adjournment.

Present as when last adjourned.

No. 1 In the matter of J. Edmund Cross Contractor Proceedings
to Suspend and Disbar Commissioners
from doing the said wrongful and unlawful acts complained of by their attorney E. E. Eaton
Esq. and the said Commissioners appearing, the proceedings had in the
premises by the Court the 25th August Inst. are read and the
premises by the Court to please interrogatories to said petitioner and
the further hearing conduct the proceeding in behalf of the Court.

No. 2 The Cle Elum and Roslyn Coal Co. Error to District Court
Company, Plaintiff in Error, of Clark County
vs.
E. E. Foster Receiver of the First National
Bank of Ellensburg, Defendant in Error

The cause coming on for hearing upon the transcript of record assignment of error and brief of counsel on file, as argued by L. D. Bantz and A. A. Jones Esquires for plaintiff in error and E. B. Ferguson Esquire for defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until 10 o'clock a.m. tomorrow morning at ten o'clock

Thomas Smith
Chief Justice

Eighteenth Day, Tuesday, August 21, 1894

Court meets pursuant to adjournment

Present, as upon yesterday.

574

John H. Albright Etal, Appellees, vs. Texas, Santa Fe and Northern Railroad Company, Etal, Appellants. } Appeal from District Court of Bernalillo County.

Now comes the said appellant Charles N. Wilderslure by his solicitor N. B. Laughlin Esq, and suggests a diminution of the record herein, and moves the court to grant him a writ of certiorari to the District Court in and for the County of Bernalillo commanding it to forthwith transmit to this court a true copy and transcript of the answer of said Charles N. Wilderslure to the amended bill of complaint of complainants, and the replication thereto, and the court being sufficiently advised in the premises, grants said motion. It is therefore ordered by the court that said motion be, and the same hereby is granted, and that said writ issue as prayed for. and It is further ordered by the court that said appellants Antonio Ortiz y Salazar and Romulo Martinez be, and they hereby are allowed to file additional assignments of error herein, and that this cause be, and the same hereby is set for hearing at the foot of the calendar, August 24. 1894

576

The Territory of New Mexico, Appellee, vs. Hipolito Armijo, Appellant } Appeal from District Court of Sierra County.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Associate Justices Freeman and Laughlin concurring. Chief Justice Smith dissenting, reversing the judgment of the court below and remanding this cause for a new trial; for reasons stated in the opinion of the court on file; It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Sierra whence this cause came into this court, be and the same hereby is reversed, and that this cause be, and the same hereby is remanded to said District Court, with directions to reinstate the same upon its docket, and grant a new trial thereof.

588

The Territory of New Mexico, Appellee, vs. Robert McFarlane, Appellant

Appeal from District Court of Lincoln County.

This cause having been submitted to, and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Laughlin, Chief Justice Smith, and Associate Justices Pau and Collier concurring, affirming the judgment of the Court below, for reasons set forth in the opinion of the Court on file: It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Lincoln whence this cause came into this court be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said District Court with directions to carry said judgment into execution.

577

The Territory of New Mexico, Appellee, vs. Vicente Armijo, Appellant

Appeal from District Court of Bernalillo County

This cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel on file, is argued by N. B. Ferguson Esq. for said appellant and E. L. Bartlett Esq. Solicitor General for said appellee and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn, until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Nineteenth Day, Wednesday, August 22 A. D. 1894

Nineteenth Day, Wednesday, August 22, 1894

Court meets pursuant to adjournment.

Present, as upon yesterday.

On motion of E. W. Bartlett Esq, it is ordered by the Court that E. B. Gaw a member of the Bar of the Third Judicial District be and he hereby is admitted to practice as a member of the bar of this court, and he thereupon appears in open court and takes the oath prescribed by the rules of this court

Pedro Pena, Administrator, Appellee, vs George W Harrison, Administrator, Etal Appellants } Appeal from District Court of Bernalillo County.

The cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file herein, and argued by W A Vaughn Esq, for appellants and N. B. Field Esq, for appellees, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Twentieth Day. Thursday, August 23. 1894.

Court meets pursuant to adjournment

Present, as upon yesterday.

5716 In the matter of the application of Adolfo Chavez for a writ of Prohibition

Now comes the said Adolfo Chavez by his attorney E.M. Darney, Esq, and exhibits to the Court his petition for a writ of prohibition with the return of the sheriff of the County of Valencia attached thereto, showing that due and legal service has been had upon the said Jose Angel Pino and Juan Antonio Chavez and moves the court for a prohibition, directed against the said Jose Angel Pino and Juan Antonio Chavez, restraining them from proceeding in the matter of the petition of the said Adolfo Chavez for a writ of prohibition directed to the said Jose Angel Pino and Juan Antonio Chavez, as Justices of the Peace of Precinct No 28 in the County of Valencia and Territory of New Mexico, and Juan Antonio Chavez, commanding them to desist and refrain from all proceedings in the matter of the attempted execution of a certain pretended warrant issued by said Justices to Nicolas Sabla Garcia y Ortiz and Nicanicio Chavez y Valencia against said petitioner Adolfo Chavez and returned into our District Court for the 2nd day of April 1894. by the said Juan Antonio Chavez as the said Adolfo Chavez, so far as the same relates to any real estate and it is further considered and adjudged by the Court that the said Adolfo Chavez do have and recover of the said Jose Angel Pino and Juan Antonio Chavez his costs in this behalf expended to be taxed. and that he have execution therefor.

5814 Delaintas Hermanos Contra. Etal. Appellants
vs
Henry Hoerle, Etal Appellees

Appeal from District Court. First Judicial District.

Comes on to be heard the Transcript of Record, Assignment of Errors and Briefs of Counsel on file, and argued by E.L. Bartlett and L.A. Hiss Esquires for said

appellant, and J. P. H. Hemingway Esq. United States District attorney for said appellee, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

589 United States of America, appellee
vs
Daniel de Graeia, appellant
Appeal from District court, Fifth Judicial District.

Now comes the said appellant by his attorney E. N. Briant Esq, and moves the court to continue this cause until the next term of this court, and said motion not being resisted by said appellee, the court grants the same: It is therefore ordered by the court that this cause be, and the same hereby is continued until the next term of this court; and it is further ordered by the court that said appellant to file, before the adjournment of this court, a good and sufficient appeal bond herein.

United States of America, appellee,
vs
Louis Brooks, appellant
Appeal from District court, Fifth Judicial District.

Now comes the said appellee by its District attorney J. P. H. Hemingway Esq, and moves the court to dismiss said appeal for want of prosecution, and to affirm the judgment of the court below, and the court being sufficiently advised in the premises grants said motion: It is therefore considered and adjudged by the court that the appeal herein be, and the same hereby is dismissed, that the judgment of the District Court in and for the Fifth Judicial District whence this cause came into this court, be and the same hereby is affirmed, and that this cause be, and the same hereby is remanded to said District Court with directions to carry said judgment into execution: It is further considered and adjudged that the said United States of America do have and recover of the said Louis Brooks its costs in this behalf expended, as well in the court below as in this court to be taxed, and that it have execution therefor: and it appearing to the court that John McDonald and J. T. Smart are sureties upon the appeal bond of said appellant, It is further considered and adjudged by the court that the said United States of America do have and recover of the said John McDonald, and J. T. Smart, sureties as aforesaid, its costs herein, as well in the court below as in this court to be taxed, and that it have execution therefor.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Seventy-First Day, Friday, August 21st 1896

Court met pursuant to adjournment.

Court as when yesterday.

No 5145

William H. Bucher, Trustee, Appellee.

vs.

Moses Frankson et al. Appellants

Appeal from Fourth Court of Dixon County

Now comes the said Appellee by his Attorney F. M. Barker Esq and moves the Court for reasons set forth in his motion on file, to dismiss the appeal herein, and said motion being argued by said F. M. Barker for Appellee is submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

No 5152

The Territory of New Mexico, Appellee.

vs.

The Dem. Appellant

Appeal from Fourth Court Rio Arriba County

This cause coming on for hearing upon the transcript of record, assignment of error and briefs of Counsel on file, is argued by F. F. Gunnay Esq. for Appellant, and E. A. Hurlbut Esq. Solicitor General for Appellee, and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

No 5154

First National Bank of Albuquerque, et al

vs.

Colin A Fox, Executor, et al, Appellants

Appeal from First Judicial District County

It is ordered that the said Appellant Colin A. Fox, Executor &c, Jab for hereby is given thirty days from today in which to file his brief therein.

It is ordered that Court do now adjourn until next Monday morning at ten o'clock.

Thomas Smith
Chief Justice

Twenty Second Day. Monday. August 27. 1894.

Court meets pursuant to adjournment.

Present, as upon Saturday.

On motion of Mr B. Ferguson Esq. It is ordered by the court that B.F. Adams a member of the bar of the Second Judicial District, be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court and takes the oath prescribed by the rules of this court.

Whereas, Mr. A. Otero a Commissioner of the District Court of the United States for the Fourth Judicial District of New Mexico residing at Las Vegas N.M., has presented to the Court an account of his fees as such commissioner, from the 1st day of January, 1894, to the 30th day of June, 1894, and in the presence of Hon. J.B.H. Hemingway, the U.S. Attorney, has proven on oath to the satisfaction of the court, that the services therein charged for have been actually and necessarily performed as therein stated, and the same appearing reasonable and according to law, It is therefore ordered that said account, amounting to the sum of Eighty dollars and ninety cents, be and the same is hereby approved

Whereas, Edward L. Hall, United States Marshal, has rendered to this court an account of his fees and expenses from the 1st day of April 1894 to the 30th day of June 1894 with the vouchers and items thereof, and in presence of J.B.H. Hemingway Esq. United States attorney, has proved on oath to the satisfaction of the court that the services and travel charged therein viz: actually and necessarily performed, and that the expenses were necessarily incurred; and whereas said charges appear to be just and according to law, It is hereby ordered that the said account, amounting to Five Hundred and Forty One dollars and ninety four cents, be and the same is hereby approved.

Whereas Edward L. Hall, United States Marshal, has rendered to this court an account of his disbursements for miscellaneous expenses incurred at and previous to the May Term 1894, at Santa Fe, N.M of the United States District Court, with the vouchers and items thereof, and in presence of J.B.H. Hemingway Esq, United States attorney, has proved on oath to the satisfaction of the court that the services therein charged have been actually and necessarily performed as therein stated, and that the disbursements charged, have been fully paid in lawful money; and whereas said charges appear to be just and according to law, It is hereby ordered by the court that the said account, amounting to seventeen dollars and thirty eight cents, be and this same is hereby approved.

Whereas, Edward L. Rea, United States Marshal, has rendered to this Court an account of actual expenses incurred by the Deputy Maxine Martinez in going from Santa Fe N.M. to Espinola N.M. to make Service of warrant on to Lucas and return to Santa Fe N.M. with the vouchers and items thereof, and in the presence of J.B.H. Hemingway, Esq. United States attorney, who proved, on oath, to the satisfaction of the Court, that the sums and amounts therein charged were actually and necessarily paid, as therein stated, in lawful money: and whereas, said items and amounts appear to be just and according to law. It is hereby ordered that the said account amounting to Two dollars be and the same is hereby approved.

793 United States of America, Appellee, vs. Atanacio Archuleta de Rosales, Appellant

Appeal from District Court, Santa Fe County.

Now comes the said appellee by the District Attorney J.B.H. Hemingway Esq. and files the transcript of record herein, and moves the Court to docket this cause and affirm the judgment of the Court below, and the Court being sufficiently advised in the premises, doth sustain said motion: It is therefore ordered by the Court that said motion be, and the same hereby is denied.

794 United States of America, Appellee, vs. D. M. Folsom, Appellant.

Appeal from District Court, Santa Fe County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, as argued by S.R. Ramey Esq. for said appellant

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice

Twenty-Third Day, Tuesday, August 28. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

573. United States of America, Appellee. vs. D. M. Folsom, Appellant. Appeal from District Court Second Judicial District.

The cause coming on for further hearing, is argued by M. B. Field Esq, for said appellant.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Twenty Fourth Day, Wednesday, August 29. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

590 United States of America, Appellee. vs. Louis A. Brooks, Appellant. Appeal from District Court. Fifth Judicial District.

Now comes the United States of America by J. B. M. Hennessy, Esq, their District Attorney, and the said Louis A. Brooks, although three times solemnly called, comes not but makes default; and it appearing to the Court that the said Louis A. Brooks as Principal and John McDonald and J. F. Smart as his sureties, on the twenty-first of May, 1894 entered into a recognizance and bonds, unto the United States of America in the penal sum of six hundred dollars conditioned for the appearance of the said Louis A. Brooks before this court on the thirtieth of July, 1894. to obey such judgment and sentence as may be rendered on said appeal, and shall pay or cause to be paid all costs incurred in the cause, the said John McDonald and J. F. Smart are now three times solemnly called and required to produce in open court the body of the said Louis A. Brooks under the penalty of forfeiture of said bonds, but come not, nor produce his body, and the court thereupon declares the said bond forfeited; It is therefore considered and adjudged by the court that the United States of America recover of said Louis A. Brooks, John McDonald and J. F. Smart the sum of six hundred dollars the penalty of said bonds, together with the costs of this proceeding to be taxed

Equity Appeal from Circuit
Court of Cook County

Anthony G. Hamilton Appellee

vs.

Julian Hamilton Appellant.

This cause coming on to be heard on the transcript of the record and briefs of counsel and submitted to the court for decision, and the court having now sufficiently advised in the premises do find that there was manifest error in the decree of the Circuit Court of Cook County in this cause, in this, to wit: in that the court did not find that the complainant was entitled to the relief prayed for in his bill of complaint, and that the court should have found the equities of the cause in favor of the complainant, and that the court should have entered a decree in favor of the complainant and against the defendant, Julian Hamilton, for the conveyance of the premises described in the bill of complaint, and that the court should have appointed a master in chancery to execute the deed of conveyance of said premises to the complainant, and that the court should have retained jurisdiction of the cause for the purpose of making such other and further orders as might be necessary to carry into effect the decree entered by the court

Twenty-Fifth Day, Thursday, August 30. 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

59H. Eugenio Romero, Appellant. vs Lorenzo Lopez, Appellee. } Appeal from District Court of San Miguel County.

Now comes the said appellee by his solicitor E.W. Long Esq, and produces the transcript of record herein, and moves the court to docket this cause and affirm the judgment of the court below, on account of the failure of said appellant to file the transcript of records of the District Court in this cause, and the Court being sufficiently advised in the premises, grants said motion: It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of San Miguel whence this cause came into this court be and the same hereby is affirmed: and in accordance with the judgment of said District Court, it is considered and adjudged by this court that the said Lorenzo Lopez return his office of Sheriff of San Miguel County, and that he have and recover of said Eugenio Romero his costs in this behalf expended to be taxed and that execution issue therefor: and it appearing to the court that Trinidad Romero and Francisco B. de Baca are sureties upon the appeal bond of said appellant, It is further considered and adjudged by the Court that the said Lorenzo Lopez do have and recover of the said Trinidad Romero and Francisco B. de Baca sureties as aforesaid his costs in this behalf expended as well in the court below as in this court to be taxed, and that execution issue therefor: It is further ordered by the court that execution upon this judgment be and the same hereby is suspended for the period of thirty days.

587 In the matter of H. D. Causey, Clerk } Contempt Proceedings. of this Court.

592. In the matter of A. L. Kendall, Charles W. Dudrow & Victor Ortega, County Commissioners. } Contempt Proceedings.

These causes coming on for hearing, the court proceeds to hear the oral testimony of witnesses, and the arguments of N. B. Field and Charles A. Spiess Esquires for said respondents and F.H. Lorentz Esq. as friends of the Court, are then submitted to the court, and the court not being sufficiently advised in the premises, takes said causes under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Edward Kruger
Asst Justice.

Twenty Sixth Day Friday August 31st 1894.

Court meets pursuant to adjournment.

Present as upon yesterday.

394 The Territory of New Mexico, Appellee. } Appeal from District Court
James Barrett Appellant. } of Lincoln County.

This cause having been submitted to, and taken under advisement by this court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Baughlin, affirming the judgment of the court below, Chief Justice Smith and Associate Justices Fall and Collier concurring, for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment in this cause of the District Court in and for the County of Lincoln, whence this cause came into this court, be and the same hereby is affirmed. And it appearing that the judgment of this court affirming the judgment of the court below cannot be placed in the hands of the proper officer in sufficient time for the execution of the judgment of said lower court. It is now further considered and adjudged by the court that the Sheriff of the County of Eddy New Mexico, be and he hereby is commanded to take the said James Barrett to some proper place in the County of Eddy, and between the hours of six of the clock in the morning and four of the clock in the afternoon on the second Friday of September, A.D. 1894, the same being the fourteenth day of September, A.D. 1894, to hang the said James Barrett by the neck until he be dead. And it is further considered and adjudged by the court that a duly certified copy of this judgment and sentence attested by the clerk of this court, shall be the warrant to said Sheriff of the County of Eddy for the due execution thereof.

544 A. M. Berdile, Plff. in Error. } Error to District Court
vs } of Bernalillo County.
Elliott Crosson, Etal

The cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by Messrs. Catron & Bliss for plaintiff in error and A.J Rodey Esq. for defendants in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

58H. First National Bank of Albuquerque, Etal Appellees, vs John A. Lee, Executor, Etal, Appellant. Appeal from District Court of Bernalillo County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by N. B. Field Esquire for appellant Martha A. Talbott and H. L. Warren Esquire for appellees and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement: and on motion of N. B. Field Esq. It is ordered by the court that he be, and he hereby is granted leave to file hereafter an additional brief herein in behalf of said appellant Martha A. Talbott.

It is ordered that Court do now adjourn until next Monday morning at ten o'clock.

Thomas Smith
Chief Justice

Twenty-Seventh Day, Monday, September 3, 189[illegible].

Court met pursuant to adjournment

Present, as upon Saturday last.

547. Charles Clark-Jr., Eff. in Error, vs William F. Cunningham, Deft. in Error. Error to District Court of Santa Fe County.

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith affirming the judgment of the court below, Associate Justices Fall, Collier and Laughlin concurring. Associate Justice Freeman dissenting, for reasons stated in the opinion of the court on file: It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Santa Fe in this cause come into this court be, and the same hereby is affirmed.

553 Charles H. Corbin, Appellant
vs
William P. Cunningham, Appellee
Appeal from Dutch Bayou of Santa Fe County.

This cause having been argued by counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Smith affirming the judgment of the Court below, Associate Justices Fall, Collier and Baughn concurring, Associate Justice Furman dissenting, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Santa Fe wherein this cause came into the Court be, and the same hereby is affirmed, and that in accordance therewith the injunction against the said Appellee of date July 8, 1892, be and the same hereby is dissolved.

563 In the matter of William P. Cunningham. Application for writ of Prohibition.

564 In the matter of Lonsdale Lucky & Ore Mining Company. Application for writ of Prohibition

The foregoing two causes having been argued by counsel submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Fall directing the issuance of a prohibition absolute as prayed for in the petitions in said causes. It is therefore considered and adjudged by the Court that a writ of prohibition absolute be and the same hereby is ordered issued in each of the foregoing two causes in accordance with the prayers in said petitions contained; and it is further considered and adjudged that in the matter of said William P. Cunningham, the County of Santa Fe do pay all costs incurred herein to be taxed, and in the matter of said Lonsdale Lucky and Ore Mining Company, the Territory of New Mexico do pay all costs in that proceeding, to be taxed

It is ordered that Court do now stand adjourned until to-morrow morning at twelve o'clock.

Thomas Smith
Chief Justice

Twenty-Eighth Day. Tuesday, September 4th 1894.

Court meets pursuant to adjournment.

Present, as upon yesterday.

Whereas H. D Clancy, Clerk of this Court has rendered an account of his fees for services performed at and previous to the present term of court with the items thereof, and in presence of J. B. H. Hemingway U. S. Attorney, has proven on oath to the satisfaction of the court that the services therein charged for have been actually and necessarily performed as therein stated, and also that on the days for which per diem is charged, business was actually transacted in court, or that court was actually opened for business: and whereas said charges appear to be just and according to law it is ordered that said account, amounting to Four Hundred and ~~Forty~~ Forty-One dollars and ~~seventy~~ sixty cents be and the ~~same~~ is hereby approved.

H20 E. D. Bullard. Plff in Error } Error to District Court of
vs. } San Miguel County.
Lorenzo Lopez }

This cause having been argued by counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Chief Justice Smith Associate Justices Field, Laughlin and Freeman Concurring. reversing the judgment of the Court below, for reasons stated in the opinions of the court on file. - It is therefore Considered and adjudged that the judgment of the District Court in and for the County of San Miguel, whence this cause came into this Court be, and the same is hereby reversed, set aside and altogether held for naught; and it is further considered and adjudged by the Court that the said Edward D. Bullard, do have and recover of the said Lorenzo Lopez, Assignee &c. his costs in this behalf expended, as well in the Court below as in this Court, to be taxed and that he have execution therefor. - Further, the Appellee filed a motion for a rehearing in the above cause, which was taken under advisement by the Court.

Twenty eighth Day, Tuesday September 4th A. D. 1894

563

Nestor P Eaton Plff in Error

vs.

E L Browne Treasurer of the County of Socorro Defendant in Error

Error to District Court of Socorro County

This Cause having been submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Fall, Chief Justice Smith and Associate Justices Collier & Laughlin Concurring, affirming the judgement of the Court below, for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the Court that the judgement of the District Court in and for the County of Socorro whence this cause came into this Court, be and the same hereby is affirmed, and that in accordance therewith, the peremptory writ of mandamus prayed for by said plaintiff in Error be, and the same hereby is denied; and it is further considered and adjudged by the court, that the said Nestor P Eaton pay all costs in this behalf expended, as well in the Court below as in this Court, to be taxed, and that execution issue therefor.

577

Territory of New Mexico, Appellee

vs.

Vicente Armijo Appellant

Appeal from District Court of Bernalillo County.

This Cause having been argued by Counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Laughlin, Chief Justice Smith and Associate Justices Fall and Freeman Concurring, reversing the judgement of the Court below, and remanding this cause with directions to Enter judgement sustaining the motion in arrest of judgement; for reasons stated in the opinion of the court on file; It is therefore considered and adjudged by the court, that the judgement of the District Court in and for the County of Bernalillo, whence this cause came into this Court, be and the same is remanded to said District Court with directions to Enter judgement sustaining the motion in arrest of judgement heretofore made in said District Court, and it is further considered by the Court that the Territory of New Mexico pay all costs in this behalf expended, to be taxed.

Twenty Eighth Day. September 4th A. D. 1894

580 United States of America Appellee } Appeal from
vs. } First Judicial District Court
Manuel G. Gomez Appellant }

This cause having been argued by counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Laughlin, Chief Justice Smith and Associate Justices Collier, Fall and Freeman Concurring, affirming the judgement of the Court below for reasons stated in the opinion of the Court on file; it is therefore considered and adjudged by the Court that the judgement of the District Court in and for the First Judicial District whence this cause came into this Court, be and the same hereby is affirmed, and that in accordance therewith the said Manuel G. Gomez be, and he hereby is remanded to the custody of the Marshal of the United States for New Mexico, to be by him conveyed to the Territorial Penitentiary situated at Santa Fe New Mexico, to be there imprisoned and confined for the full term of two months beginning with to-day, and that a warrant of commitment issue against him.

United States of America Appellee } Appeal from
vs. } Second Judicial District
5/13 Stephen M. Folsom Appellant. }

This cause having been submitted to and taken under advisement by the Court at a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Chief Justice Smith, Associate Justices Fall, Laughlin and Freeman concurring, affirming the judgement of the Court below. It is therefore considered and adjudged by the Court that the judgement of the Court District of the Second Judicial District whence this cause came into this Court be and the same hereby is affirmed, and that in accordance therewith the said Stephen M Folsom be confined in the New Mexico Penitentiary situated at Santa Fe New Mexico for the full term of five years, beginning with to-day for each of the seven offences for which he was convicted in the lower Court, but the said seven periods of five years each shall run concurrently, and that warrant of commitment be issued against him.

558 In Re Application of William P. Cunningham } For a writ of Prohibition directed to Board of County Commissioners of Santa Fe County.

This cause having been argued by Counsel and submitted to and taken under advisement by the Court upon a former day of the present term, upon the motion of said applicant for a writ of prohibition absolute, the Court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith, Associate Justices Fall and Collier concurring, granting said motion; for reasons stated in the opinion by the Court on file. It is therefore Considered and adjudged by the Court that the said petitioner be and he hereby is granted a writ of prohibition absolute directed to the said County Commissioners as prayed for in their petition on file. and it is further considered by the Court that the said County of Santa Fe do pay all costs in this behalf expended to be taxed; whereupon, upon motion of E. L. Bartlett Esq., it is ordered by the Court that an appeal be, and the same hereby is granted from the judgement of this Court, to the Supreme Court of the United States, and that the Clerk of this Court be and he hereby is directed to Transmit to said Supreme Court a full, true and perfect Transcript of the record herein.

561 In Re. Application of the Lincoln Lucky Lee Mining Company. } For a writ of Prohibition

This cause having been argued by Counsel and submitted to and taken under advisement by the Court, upon a former day of the present term, upon the motion of said applicant for a writ of prohibition absolute, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Fall, Chief Justice Smith and Associate Justice Collier concurring, granting said motion, for reasons stated, in the opinion by the Court on file: It is therefore Considered and adjudged by the Court that the said petitioner be and he hereby is granted a writ of prohibition absolute directed to the said District Court as prayed for in their petition on file and it is further Considered by the Court that the said Territory of New Mexico do pay all costs in this behalf expended to be taxed; whereupon upon motion of E. L. Bartlett Esq; It is ordered by the Court that an appeal be and the same hereby is granted from the judgement of this Court, to the Supreme Court of the United States, and that the Clerk of this Court be and he hereby is directed to Transmit to said Supreme Court a full, true and perfect Transcripts of the record herein.

Territory of New Mexico
vs.
587 H. S. Clancy. Clerk
C. A. Spiess. Attorney, and
592 A. L. Kendall, C. W. Dudrow.
Victor Ortega. Co. Commr.

Contempt Proceedings.

The said cause coming on to be heard upon rules and answers therein and the Court being fully advised doth order and adjudge that the said H. S. Clancy Clerk. C. A Spiess Attorney, both officers of this Court, and said A. L. Kendall and C. W. Dudrow be committed to the County jail of the County of Santa Fe in the said Territory, the said Clancy for the term of Thirty days, the said Spiess for Thirty days, the said Kendall for twenty days and the said Dudrow for twenty days, and that a writ issue out of this Court under its seal commanding the Sheriff and ex-officio jailor to arrest and take into custody said persons. It is further ordered that said Victor Ortega be and he hereby is found not guilty of contempt and the proceedings against him dismissed. It is further ordered that said H. S. Clancy is hereby removed from office as clerk of this Court and said C. A Spiess suspended from practice before this Court for the period of one year.

Territory of New Mexico
vs.
H. S. Clancy
C. A. Spiess
A. L. Kendall C. W. Dudrow
Victor Ortega.

Contempt Proceedings.

It is hereby ordered that the order of commitment of all the said respondents save and except said Victor Ortega be and the same is hereby modified to the extent of directing the Sheriff of the County of Santa Fe and ex-officio jailor to permit and allow the said Spiess to attend as school director, all regular meetings of the school board of which he is a member and it is hereby stated that the said order so far as it applies to suspension of said Spiess from practicing in this Court shall not be construed as applying to his practicing as an attorney in the District Courts, Probate and other Courts of this Territory other than this Court. It is further ordered that the said Sheriff shall permit the said Kendall and Dudrow to attend regular and special meetings of the Board of Commissioners of the County of Santa Fe, the said Spiess and the said Kendall and Dudrow to be allowed only to go from

the gail to any such meetings of said Board in charge of Jailor or his deputy, and to be returned to said jail upon the conclusion of business on the adjournment of said Boards.

Territory of New Mexico
vs.
H. S Clancy. C. A. Spiess
A. L. Kendall. C. W Dudrow
Victor Ortega

} Criminal Proceedings.

On Hearing Counsel for the defendants in the above entitled cause it is ordered that the order of Commitment heretofore entered and modified, be and the same hereby is further modified so that the said defendants who have been ordered committed to the gail of Santa Fe County, shall instead of confinement in said gail, be confined in the United States gail in the Territorial Penitentiary situated at Santa Fe New Mexico and that the costs of such Commitment and Confinement shall be borne by the Territory of New Mexico, and it is further ordered that the Commitments heretofore issued against said parties be and the same are hereby recalled and other Commitments in lieu thereof in accordance with this order be issued. It is further ordered that defendants to have leave to prepare and submit such bill of exceptions as they or either of them may be advised will be necessary for a proper review of their cases or either of them, such bill of Exceptions to be submitted to the Chief Justice of this Court who is hereby authorized, to settle and sign and seal the same on behalf of this Court. —

596. In Re.
Application of
Charles Closson.

} For a writ of Prohibition directed to the Board of Trustees of the Town of Cerillos —

In the matter of the applications of Charles Closson for a writ of Prohibition against the Board of Trustees of the Town of Cerillos it is ordered that a writ of Prohibition issue in accordance with the prayer of said petition returnable at the adjourned term of the Supreme Court to be begun and held in the City of Santa Fe on the last Monday of October, A. D. 1894

Twenty ninth Day. Wednesday September 5th A. D. 1894

It is hereby ordered that the County of Guadalupe in the Territory of New Mexico, be and the same hereby is for Judicial purposes, attached to the Second Judicial District of New Mexico.

It is ordered that Court do now adjourn until to-morrow Thursday afternoon at Two o'clock

Thirtieth day - Thursday September 6th 1894

Court met pursuant to adjournment.

Present as upon Wednesday

Territory of New Mexico }
vs. }
Charles A. Spiess. }

T. B. Catron Esqr, attorney in the above entitled cause filed a motion to arrest the judgement, and the Court, after consideration, being fully advised in the premises, overruled the motion. —

Harry T. Clancy having been removed from office of Clerk of the Supreme Court of the Territory of New Mexico, Pedro B. Otero has been duly appointed in place of said Harry T. Clancy, the 4th day of September A. D. 1894, and presents his official bond as follows. —

Know all men by these presents, that we, Pedro B Otero as Principal and Quintin Monier and John H Sloan and Juliana Vigil de Chavez as his sureties, are held and firmly bound unto the United States of America in the sum of Two thousand dollars, lawful money of the United States of America for the payment of which, well and truly to be made, we bind ourselves and our heirs, Executors and administrators firmly by these presents. Sealed with our seals and dated the Fourth day of September one thousand eight hundred and ninety four.

The condition of the above obligation is such that said Page F. Otero, has this day been appointed Clerk of the Supreme Court of the Territory of New Mexico Now therefore if the above bounden Page F. Otero shall well and faithfully do and perform all the duties required by law to be done and performed as Clerk of the said Supreme Court of the Territory of New Mexico then this above obligation to be void else to remain in full force and effect.

Page F. Otero (Seal)
Quintus Monier. (Seal)
John H. Sloan (Seal)
Julianus Vigil de Chavez (Seal)

Territory of New Mexico }
County of Santa Fe }

On this seventh day of September in the year of our Lord, one thousand, eight hundred and ninety four before me personally appeared, Page F. Otero, Quintus Monier, John H. Sloan and Julianus Vigil de Chavez to me personally known to be the persons described in and who executed the foregoing official bond, and they severally acknowledged to me that they executed the same as their free act and deed, and for the uses and purposes therein mentioned. And the said Quintus Monier, John H. Sloan and Julianus Vigil de Chavez, being each by me duly sworn, on oath, did each say for himself and herself that he and she is a resident and freeholder of the County of Santa Fe in the Territory of New Mexico; that he and she is worth the sum set opposite his or her name or signature in said bond hereto annexed, over and above all just debts and liabilities and of property exempt by law from execution or forced sale. -

Witness my hand and my official seal this the Seventh day of September A. D. 1894 at my office in Santa Fe New Mexico

(Seal)

John P. Victory
Notary Public.

Having examined the within bond, I approve the same and the sureties thereon.

Thomas Smith
Chief Justice

Dep. A. D. 189

Territory of New Mexico, }
County of Santa Fe }

I, Payer D. Otero, being appointed Clerk of the Supreme Court of the Territory of New Mexico, do solemnly swear that I will truly and faithfully enter and record all the orders, decrees, judgements and proceedings of the said Court, and that I will faithfully and impartially discharge and perform all the duties of my said office according to the best of my abilities and understanding, So help me God.—

Payer D. Otero

Subscribed and sworn to before me this 4th day of September A. D 1894

Thomas Smith
Chief Justice

It is ordered that Court do now adjourn until October 29th 1894

Thomas Smith
Chief Justice

Court met pursuant adjournment.

Present. Hon Thomas Smith Chief Justice
Hon A. A. Freeman, Associate Justice
Hon A. B. Fall " "
J. B. H. Hemingway United States Dist Attorney
Edward L. Hall United States Marshal
Geo. L. Wyllys Clerk pro tem

It appearing that Page Otero the Clerk of this Court is absent, and it further appearing that George L. Wyllys is a competent person to perform the duties of said office of Clerk of this Court. It is therefore ordered that the said Wyllys be and he is hereby appointed Clerk of the Supreme Court pro tempore to perform the duties of said office during the absence of the said Otero. And thereupon the said Wyllys appeared in open Court and was sworn to faithfully discharge the duties of said office.

Thomas Smith
Chief Justice

In the Matter of the application of
Joe Piantoni
Peter Bartagna
Andrew Bayetto
John Ramonda
Pietro Morgante
Pietro Gandina
Colombo Lingi
Geo Vergalis
Graziano Giovanola
Aleron Ramond
Bernardo Dalzadelli

for citizenship.

Now Comes, Joe Piantoni, Peter Bartagna, Andrew Bayetto, John Ramonda, Pietro Morgante, Pietro Gandino, Colombo Lingi, Geo Vergalis, Graziano Giovanola Aleron Ramond, and Bernardo Dalzadelli, aliens, and makes application to be admitted to become citizens of the United States; and it being made to appear to the satisfaction of the Court, that it was bona fide their intention to become citizens of the United States, and

to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty and particularly to Humbert King of Italy. And it being further made to appear to the satisfaction of the Court by the testimony, under oath, of Frank Leonatti and Felix Papa, citizens of the United States, that the said Joe Piantoni, Peter Cartagna, Andrew Bayetto, John Ramonda, Pietro Morgante, Pietro Gandina, Columbo Lingi, Gio Vergalio, Graziano Giovanola, Steven Ramond, Bernardo Dolzadella have resided within the United States five years at least, and within the Territory of New Mexico one year at least and that during that time they have behaved as men of good Moral Character, attached to the principles of the Constitution of the United States, and well disposed to the good Order and happiness of the same, and the said Joe Piantoni, Peter Cartagna, Andrews Bayetto, John Ramonda, Pietro Morgan, Pietro Gandina, Columbo Lingi, Gio Vergalio, Graziano Giovanola, Steven Ramond and Bernardo Dolzadella declaring on oath that they will support the Constitution of the United States, and that they absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, and particularly to Humbert, King of Italy.

It is ordered by the Court that the said Joe Piantoni, Peter Cartagna, Andrew Bayetto, John Ramonda, Pietro Morgan, Pietro Gandina, Columbo Lingi, Gio Vergalio, Graziano Giovanola, Steven Ramond, Bernardo Dolzadella be and hereby are admitted to Citizens of the United States.

In the Matter of the Application of Franc Varley } Citizenship.

Now comes Franc Varley, an alien, and makes application to be admitted to become a citizen of the United States; and it being made to appear to the satisfaction of the Court, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to the Republic of France, and it being further made to appear to the satisfaction of the Court, by the testimony, under oath of Frank Leonatti and Felix Papa,

citizens of the United States, that the said Frank Varley has resided within the United States five years at least and within the Territory of New Mexico one year at least and that during that time he has behaved as a man of good moral Character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the same and the said Frank Varley declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty and particularly to The Republic of France.

It is ordered by the Court that the said Frank Varley be, and he hereby is admitted to become a citizen of the United States.

In the Matter of the
Application Alexis De Chastoney } Citizenship

Now comes Alexis De Chastoney, an alien, and makes application to be admitted to become a Citizen of the United States; and it being made to appear to the Satisfaction of the Court that it is bona fide his intention to become a citizen of the United States and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to the Swiss Republic. And it being further made to appear to the Satisfaction of the Court, by the testimony, under oath, of Frank Leonalli and Felix Papa, citizens of the United States, that the said Alexis De Chastoney has resided within the United States five years at least and within the Territory of New Mexico, one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same, and the said Alexis De Chastoney declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign

Prince Potentate, State or Sovereignty and particularly to the Swiss Republic.

It is ordered by the Court that the said Alexis de Chastoney be, and he hereby is, admitted to become a citizen of the United States.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock, to meet at the Federal Building, in the Rooms usually occupied by the Land Court.

Thirty Second Day - October 30th 1894. (Tuesday.)

Court met pursuant to adjournment.

Present.

Hon Thomas Smith Chief Justice
Hon A. A. Freeman Asso. "
Hon A. B. Fall Asso "
Hon N. C. Collier asso. "
J. B. H. Hemingway U S. atty
Edward L. Hall U. S. Marshal.
Per L. Hyllyer Clerk pro tem.

578. Wm. A Baecher, Trustee, Appellee
vs.
Moses Thompson, et al. Appellants
} Appeal from district court, Dona County.

This Cause having been argued by Counsel and submitted to, and taken under advisement by the court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith and Associate Justices Freeman and Collier concurring, for reasons stated in the Opinion of the Court on file. It is therefore considered and adjudged by the Court that the motion to dismiss said appeal be sustained, and it is so ordered; And it is further Considered by the Court that the said Appellee recover of the said Appellants his Costs in this behalf expended, to be taxed, and that execution issue therefor.

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John W. Schofield.
Receiver Albuquerque Nat'l Bank
Plaintiff in Error
vs.
Stephen M. Folsom
Defendant in Error

Error to Bernalillo County.

This cause having been argued by Counsel and submitted to and taken under advisement by the Court at a former day of this term, the Court being now fully advised in the premises, announces its decision by Associate Justice A. A. Freeman, Chief Justice Smith and Associate Justice A. B. Fall Concurring, affirming the judgment of the court below, for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the Court that the judgment in this Cause of the District Court in and for the County of Bernalillo whence this cause came into this Court be, and the same hereby is affirmed, and that in accordance therewith, the said John W. Schofield, Receiver of Albuquerque National Bank, do have and recover of the said Stephen M. Folsom the sum of Thirty-Three hundred and Twelve dollars and fifty-eight cents, with interest thereon Twenty four Thousand, Eight Hundred and Eighty nine dollars and Thirty three cents thereof at the rate of Twelve per cent per annum from the Tenth day of May A.D. 1894, and also its Costs in this behalf expended, as well in the Court below as in this Court to be taxed, and that execution issue therefor. And it is further considered that the judgment of said District Court, directing the writ of attachment herein be, and the same hereby is affirmed.

In the Matter of Publishing
the Opinions of this Court

It is ordered that the Clerk of this Court prepare two copies, duly certified under the seal of this Court, of the Opinions of this Court as soon thereafter as such opinions shall be filed in this Court and transmit the same forthwith to the West Publishing Company at St Paul, Minn. upon being paid for such service the usual rate per folio for copying the same and attaching his Certificate thereto

Thomas Smith
Chief Justice

Day, A. D. 189 2.

In the Matter of the Application of
Barth Swestka,
Jacob Sotenik.
Phillip Hussar
} Citizenship.

Now comes Barth Swestka, Jacob Sotenik and Phillip Hussar, aliens and makes application to be admitted to become citizens of the United States and it being made to appear to the satisfaction of the Court, that more than two years since they declared on oath that it was bona fide their intention of becoming citizens of the United States, and it being made further to appear to the satisfaction of the Court by the testimony, under oath, of Fred Klatz and Mat Solar, citizens of the United States, that the said Barth Swestka, Jacob Sotenik and Phillip Hussar, had resided within the United States five years at least and within the Territory of New Mexico one year at least, and that during that time they have behaved as men of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the same, and the said Barth Swestka, Jacob Sotenik and Phillip Hussar, declaring on oath that they will support the Constitution of the United States and that they absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, and particularly to the Emperor of Austria.

It is Ordered by the Court that the said Barth Swestka, Jacob Sotenik and Phillip Hussar be, and they hereby are, admitted to become citizens of the United States.

In the matter of the application of John Aylward.
} Citizenship

Now comes John Aylward, an alien and makes application to be admitted to become a citizen of the United States: and it being made to appear to the satisfaction of the Court, that it is bona fide his intention to become a citizen of the United States and to renounce forever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, and particularly to Victoria, Queen of

Great Britain, and it being satisfactorily made to appear to the satisfaction of the Court, by the testimony under oath of John Hillinson and William Stack, Citizens of the United States, that the said John Aylward has resided within the United States five years at least, and within the Territory of New Mexico one year at least, and that during that time he has behaved as a man of good moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same, and the said John Aylward declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, and particularly to Victoria, Queen of Great Britain.

It is ordered by the Court that the said John Aylward be, and he hereby is, admitted to become a citizen of the United States.

In the Matter of the application of Franz Robert Wagner } Citizenship.

Now Comes Franz Robert Wagner an alien, and makes application to be admitted to become a citizen of the United States; and it being made to appear to the Satisfaction of the Court, that it was bona fide his intention to become a citizen of the United States and to renounce forever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty and particularly to the Emperor of Germany, and it being further made to appear to the Satisfaction of the Court by the testimony under oath of Julius H. Gerdes and Herman Landheim, citizens of the United States, that the said Franz Robert Wagner has resided within the United States five years at least, and within the Territory of New Mexico one year at least, and during that time he has behaved as a man of good Moral Character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness

of the same, and the said Frank Robert Wagner declaring an oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every Foreign Prince, Potentate, State or Sovereignty, and particularly to the Emperor of Germany.

It is ordered by the Court that the said Frank Robert Wagner be, and he hereby is admitted to become a Citizen of the United States.

Whereas. Edward L. Hall, United States Marshal, has rendered to this Court an account of his disbursements for Miscellaneous Expenses incurred at and previous to the July term 1894 at Santa Fe, N M of the United States Supreme Court, with the vouchers and items thereof, and the presence of J.R.H. Hemingway Esq. United States Attorney, has proved, on oath, to the satisfaction of the Court, that the services therein charged has been actually and necessarily performed as therein stated, and that the disbursements charged have been fully paid in lawful money; and whereas said Charges appear to be just and according to law.

It is hereby ordered that the said account amounting to Thirty two dollars and forty cents, be and the same is hereby approved.

Whereas. Edward L. Hall, United States Marshal, has rendered to this Court an account of his disbursements for Miscellaneous Expenses incurred at and previous to the July Term, 1894, at Santa Fe, N. M. of the United States Supreme Court, with the vouchers and items thereof, and in the presence of J.R.H. Hemingway Esq. United States Attorney, has proved on oath, to the satisfaction of the Court, that the services therein charged have been actually and necessarily performed as therein stated, and that the disbursements charged have been fully paid in lawful money: And whereas said Charges appear to be just and according to law:

It is hereby ordered that the said account amounting to Three Hundred and fifty dollars and two cents, be and the same is hereby approved.

Whereas, Edward L. Hall, United States Marshal has rendered to this Court an account of his disbursements for Fees of Witnesses, Sessions to the July term 1894 at Santa Fe N. M. of the United States Supreme Court, with the Vouchers and items thereof, and in presence of J. B. Stenningway Esq. United States Attorney, has proved, on oath, to the Satisfaction of the Court, that the disbursements charged have been fully paid in lawful Money: And Whereas said Charges appear to be just and according to law:

It is hereby Ordered that the said account, Amounting to ~~Five~~ Thousand Nine Hundred and Forty eight Dollars and Sixty Cents, be and the same is hereby approved.

Whereas, Edward L. Hall, United States Marshal has rendered to this Court an account of his disbursements for Fees of Witnesses, Sessions to the July Term 1894 at Santa Fe N. M. of the United States Supreme Court, with the Vouchers and items thereof, and in presence of J. B. Stenningway Esq. United States Attorney, has proved on oath, to the Satisfaction of the Court, that the disbursements charged have been fully paid in lawful Money: And Whereas said Charges appear to be just and according to law.

It is hereby Ordered that the said account, Amounting to Eighty two dollars and one cents, be and the same is hereby approved.

Whereas Edward L. Hall, United States Marshal has rendered to this Court an account of his disbursements for support of Prisoners from the 31st day of December 1893 to the 30th day of June 1894 with the Vouchers and items thereof, and in the presence of J. B. S. Stenningway Esq United States attorney, has proved on oath, to the Satisfaction of the Court, that the disbursements charged have been fully paid in lawful money: And Whereas said Charges appear to be just and according to law.

It is hereby Ordered that the said account, amounting to Eight Hundred and Twenty four dollars and eighty five Cents, be and the same is hereby approved.

Whereas. Edward L. Hall. United States Marshal has rendered to this Court an account of his disbursements for Fees of Jurors at the May Terms 1894 at Santa Fe and Socorro of the United States District Court with the vouchers and items thereof and in presence of J. B. A. Hemingway Esq. United States attorney, has proved, on oath, to the Satisfaction of the Court, that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law.

It is hereby ordered that the said account, amounting to Six Thousand Nine hundred and forty four Dollars and Seventy cents, be and the same is hereby approved.

Whereas, Edward L. Hall, United States Marshal, has rendered to this Court an account of his disbursements for Fees of Witnesses at and previous to the July Term 1894 at Santa Fe N. M. of the United States Supreme Court, with vouchers and items thereof and in presence of J. B. A. Hemingway Esq. United States attorney, has proved, on oath, to the Satisfaction of the Court, that the disbursements charged have been fully paid in lawful Money; and whereas said charges appear to be just and according to law.

It is hereby ordered that the said account amounting to Two Hundred and fifty four dollars and ten Cents, be and the same is hereby approved.

Whereas. Edward L. Hall, United States Marshal, has rendered to this Court an account of his disbursements for Fees of Jurors at the October 1893, and March terms 1894 at Albuquerque N. M. and Las Vegas, of the United States District Courts with the vouchers and items thereof and in presence of J. B. A. Hemingway Esq. United States Attorney, has proved on oath, to the Satisfaction of the Court, that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law—

It is hereby ordered that the said account, amounting to Ten Dollars and no cents, be and the same is hereby approved.

Whereas. Edward L. Hall, United States Marshal, has

rendered to this Court an account of his disbursements for Miscellaneous Expenses incurred at and previous to the July Term 1894 at Santa Fe N.M. of the United State Supreme Court, with the vouchers and items thereof, and in presence of J.B.H. Hemingway Esq. United States Attorney, has proved on oath, to the satisfaction of the Court, that the disbursements charged therein were actually and necessarily performed for therein stated and that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law—

It is therefore ordered that the said account, amounting to one thousand six hundred and twenty one dollars and sixty three cents, be and the same is hereby approved.

Whereas, Edward L. Hall, United States Marshal, has rendered to this Court an account of his Fees and Expenses from the 1st day of July 1894 to the 21st day of August 1894 with vouchers and items thereof, and in presence of J.B.H. Hemingway Esq. United States Attorney, has proved on oath to the satisfaction of the Court, that the services and travel charged therein were actually and necessarily performed, and that the expenses were necessarily incurred; and whereas said charges appear to be just and according to law—

It is hereby ordered that the said account, amounting to Three thousand three hundred and sixty one dollars and thirty nine cents, be and the same is hereby approved.

Whereas Edward L. Hall, United States Marshal has rendered to this Court an account of his Fees and Expenses from the 1st day of April 1894 to the 30th day of June 1894 with the vouchers and items thereof, and in presence of J.B.H. Hemingway Esq. United States Attorney, has proved on oath to the satisfaction of the Court, that the services and travel charged therein were actually and necessarily performed, and that the expenses were necessarily incurred; and whereas said charges appear to be just and according to law—

It is hereby ordered that the said account, amounting to Nine Hundred and Seventeen dollars

and eighty-eight cents, be and the same is hereby approved.

Whereas. Edward L. Hall, United State Marshal has rendered to this Court an account of his Fees and Expenses from the 22nd day August 1894 to the 30th day of September 1894 with the Vouchers and items thereof, and in presence of J B Hemingway Esq. United State Attorney, has proved, on oath, to the Satisfaction of the Court that the Service and Travel charged therein were actually and necessarily performed, and that the expenses were necessarily incurred; And whereas said charges appear to be just and according to law-

It is hereby ordered that the said account, amounting to Four Thousand one Hundred and Seventy one Dollars and forty eight cents, be and the same is hereby approved.

Whereas, Edward L. Hall, United State Marshal has rendered to this Court an account of his disbursements for Collecting property in hands of Receivers U. S. Courts with the vouchers and items thereof, and in presence of J B Hemingway Esq. United State Attorney has proved, on oath, to the Satisfaction of the Court that the Services therein charged have been actually and necessarily performed as therein stated, and that the disbursements charged have been fully paid in lawful money; And whereas said charges appear to be just and according to law-

It is hereby ordered that the said account, amounting to Four Thousand, Five Hundred and Ninety dollars and Seventy five cents, be and the same is hereby approved.

Lindenville National Bank

vs

567 Stephen M. Olsonee

Error to Burnsville County.

This Cause having been argued by Counsel and submitted to and taken under advisement by the Court at a former day of this term, the Court -

being now fully advised in the premises announces its decision by Associate Justice A. A. Freeman. Chief Justice Smith and Associate Justice Albert B. Fall concurring reversing the action of the Court below. upon the ground that the motion to quash the attachment for the reason that the property attached had already been conveyed by assignment was improperly allowed. It is therefore considered and adjudged by the Court that the judgment in this cause of the district court in and for the County of Bernalillo, wherein this cause came into this Court, be and and the same hereby is reversed and remanded to said district court for such further proceedings as may be proper. and that the plaintiff in error recover of the defendant in error, its costs herein expended, to be taxed for which let execution issue.

Lyndenville National Bank

569 vs.

Stephen M. Folsom

The defendant in this cause having filed his motion for a rehearing herein now by his attorney F. W. Clancy, and moves the Court that said motion be continued until the next term of this Court, with leave to said defendant to file a printed argument in support of said motion on or before the first day of said next term; and the Court being sufficiently advised in the premises grants said last motion;

It is therefore ordered by the Court that said motion for a rehearing be and the same hereby is continued until the next term of this Court, and that defendant be and he hereby is given leave to file a printed argument in support of said motion on or before the first day of said next term.

Day. A. D. 189

A. M. Gentile,
Plaintiff in error,

vs.

Margaret Brosnan and
Elliott Brosnan
Defendants in Error

Error to the district Court
for the 2nd Judicial District
County of Bernalillo.

S 44

This cause having been argued Counsel and submitted to and taken Underadvisement by the Court at a former day of this Term, the Court being now fully advised in the premises announces its decision by Associate Justice A. A Freeman, Chief Justice Smith and Associate Justice Albert B. Fall concurring, reversing the Judgment of the Court below and remanding the cause with directions to proceed in accordance with the views expressed in this Opinion.

It is therefore considered and adjudged by the Court that the judgment in this cause of the district Court in and for the County of Bernalillo wherein this Cause came into this Court be and the same hereby is reversed. And that this Cause be remanded to said District Court with directions to proceed in accordance with the views expressed in the opinion of this Court on file. And it is further considered by the Court that the said plaintiff in error do have and recover of said defendants in error his costs in this behalf expended to be taxed, and that execution issue therefor.

E. D. Bullard
vs
Lorenzo Lopez, Assignee

Error district Court. San Miguel County.

420

Now comes the said defendant in error by his attorney T. B. Catron. Esq. and moves the Court for reasons stated in his motion on file, to grant him a Rehearing of this Cause.

Whereupon it is ordered by the Court that said motion be, and the same hereby is continued until the next term of this Court.

Court met pursuant to adjournment.

Present as upon October 31st 1894

John H. Schofield, Receiver.

572 vs

Montague Stevens et al Arthur S. Burr

Error to District Court 5th Judicial District

This Cause having been argued by Counsel and submitted to, and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Fall Reversing the Judgment of the Court below. Chief Justice Smith and Associate Justices Bell and Freeman, Concurring, for the reasons stated in the Opinion of the Court on file.

It is therefore Considered and adjudged by the Court that the Judgment herein of the District Court of the Fifth Judicial District in this Cause Came into this Court be and the same hereby is reversed, And this Cause be and the same hereby is remanded to said District Court with directions to reinstate the Cause upon its docket. And it is further Considered by the Court that said Plaintiff in error do have and recover of said defendants in error his Costs in this behalf expended to be taxed and that he have execution therefor.

John G. Clancy
Appellant.

545 vs

John G. Clancy, Administrator of the Estate of Chas. E. Fairbank et al. Appellees.

Appeal from District Court San Miguel Co.

This Cause Coming on upon the petition of said Appellant for a Rehearing, herein filed, upon a former day of the present term, the Court being now sufficiently advised in

the premises, denies the same, for reasons stated in the opinion of the Court on file. It is therefore ordered by the Court that said Motion be and the same hereby is denied. Whereupon the said Appellant moves the Court to make findings of fact for purposes to appeal the ~~case~~ to the Supreme Court of the United States. And the Court being advised in the premises grants said Motion, and ~~it is therefore ordered by the Court that~~ the said Appellant be and he hereby is given ~~to~~ appeal from the Judgment and decision of the Court ~~of the Supreme Court of the United States~~ and the findings of fact of the District Court in and for San Miguel County wherein this cause came into the Court be and ~~their~~ hereby are adopted as findings of fact of this Court upon said appeal to the Supreme Court of the United States.

On motion of J. H. Cried Esq. It is ordered by the Court that William C. Peacock a member of the Bar of the Second Judicial District Court, be and he hereby is admitted to practice as an Attorney, Solicitor and Counselor of this Court, and thereupon appears in open Court, and takes the official oath prescribed by the Rules of this Court.

It is ordered that the Clerk of this Court shall record all the opinions of this Court rendered since the beginning of this term in a well bound book to be procured by him for that purpose, and that he shall keep on file the originals of such opinions and that he is hereby prohibited from allowing said record of opinions or originals of said opinions to be taken from his office.

Thomas Smith
Chief Justice

Nov 1st 1894

Thomas Edward L. Hall, United States Marshal has rendered to this Court an account of his disbursements for Miscellaneous Expenses incurred previous

of the July term 189[illegible] at Santa Fe N.M. of the United States Supreme Court, with the Vouchers and items thereof, and in presence of J.B.A. Hemingway Esq United States Attorney, had proved, on oath, to the satisfaction of the Court, that the Services therein charged have been actually and necessarily performed as therein stated, and that the disbursements charged have been fully paid lawful money; And whereas said Charges appear to be just and according to law—

It is hereby ordered that the said account, amounting to Three Hundred and Forty Seven dollars and twenty cents, be and the same is hereby approved.

Whereas, J.B.A. Hemingway, United States attorney for the Territory of New Mexico has tendered to this Court an account for services performed before the Hon A. B. Fall Judge of the Third Judicial District of the Territory of New Mexico, and has proved, on oath to the Satisfaction of this Court that the Services therein Charged for have been actually and necessarily performed as therein stated; And whereas said Charges appear to be just and according to law— It is ordered that said account, amounting to the sum of Twenty Dollars be and the same is hereby approved.

Thomas Smith
Chief Justice

Whereas, J.B.A. Hemingway, United States Attorney for the Territory of New Mexico has rendered to this Court an account for services performed before Hon Thomas Smith, Chief Justice and Judge of the Fourth Judicial District of the Territory of New Mexico and has proved on oath to the Satisfaction of this Court that the Services therein charged for have been actually and necessarily performed as therein stated; and Whereas said Charges appear to be just and according to law. It is ordered that said account, amounting to the sum of Seventy dollars be and the same is hereby approved

Thomas Smith
Chief Justice

Whereas, J. B. Hemingway, United States attorney for the Territory of New Mexico, has rendered to this Court an account of his fees for services performed at the present term of this Court, with items thereof and has proved on oath to the satisfaction of this Court, that the services therein charged for have been actually and necessarily performed as therein stated and that on each day for which per diem is charged business was actually transacted in Court, or Court was actually open for the transaction of business; and whereas said charges appear to be just and according to law. It is ordered that said account, amounting to Three Hundred and forty Dollars be and is hereby approved.

In the Matter of the application of Maximillian Knodt. } Citizenship

Now comes said Maximillian Knodt, an alien, and makes application to be admitted to become a citizen of the United States. And it being made to appear to the satisfaction of the Court, that it is bona fide his intention of becoming a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to the Emperor of Germany, and it being further made to appear to the satisfaction of the Court by the testimony under oath of Charles Probst and Frank Hudson, citizens of the United States, that the said Maximillian Knodt has resided within the United States five years at least and within the Territory of New Mexico, one year at least, and that during that time he has behaved as a man of good Moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same, and the said Maximillian Knodt declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty and particularly to the Emperor of Germany.

It is ordered by the Court that the said Maximillian Knodt be, and he hereby is admitted to be

come a citizen of the United States.

596 In the Matter of the Application of Charles Closson. } for Writ of Prohibition

This cause coming on for hearing upon the motion of said Petitioner for a writ of Prohibition, absolute, is argued by J.R. Briet Esq. for said Petitioner and W.C. Peacock Esq. for Respondents and Submitted to the Court and the Court being not Sufficiently advised in the premises, takes the Same under advisement.

537 Demetrio Perez - Auditor of the Territory of New Mexico
Plaintiff in Error
vs
Phillip E. Barber
Deft. in Error } Error to District Court of Santa Fe County.

This Cause having been Submitted to the Court upon the Briefs of Counsel filed herein and taken under Consideration the Court being now Sufficiently advised in the premises announces its decision by Associate Justice Fall Setting aside the Judgment entered herein by this Court on August 24th 1893. affirming the Judgment of the Court below, and it is now thereof now reversed the Judgment of said lower Court. It is therefore Considered and adjudged by the Court that the Judgment of the District Court in and for the County of Santa Fe, Whence this cause came into this Court be and the same hereby is Reversed, and that said Plaintiff in Error recover of said Defendant in Error his Costs in this behalf expended as well in the Court below as in this Court to be taxed, and that execution issue therefor

Day. A. D. 189

Resignation of Page B. Otero Clerk of the Supreme Court.

To the Honorable, Chief Justice and associate Justices of the Supreme Court of the Territory of New Mexico.

I hereby hand in my resignation as clerk of the Supreme Court, which I ask you to accept.

Assuring you of my appreciation of your kindness in giving me this appointment and thanking you for your courtesy. I remain Yours Respectfully

P. B. Otero.

In the matter of the Clerk }
of the Supreme Court.

Page B. Otero the Clerk of this Court having tendered his resignation as such Clerk. It is hereby ordered that the said resignation is hereby accepted to take effect as of this day and that all books, papers and effects of the office of Clerk of the Supreme Court of New Mexico shall be taken charge of and be in the custody of George L. Wyllys, who is hereby appointed Clerk of this Court. It is further ordered that within ten days hereof the said Wyllys shall give bond in a similar sum and with like conditions contained in the bond of said Otero as such Clerk, the Chief Justice of this Court to approve the said bond.

Thomas Smith
Chief Justice
N. M.

It is Ordered that Court do now adjourn Sine die.

Thomas Smith
Chief Justice.

Day, November 8th A. D. 1894

Oath of office.

Territory of New Mexico, }
County of Santa Fe }

I, George L. Shelby. being appointed Clerk of the Supreme Court of the Territory of New Mexico, do solemnly swear that I will truly and faithfully enter and record all the orders, decrees, judgments and proceedings of said Court, and that I will faithfully and impartially discharge all the duties of said office according to the best of My ability and understanding, So help me God.

Geo. L Shelby.

Subscribed and Sworn to before me this 6th day of November, A.D. 1894.

N. B. Laughlin
Associate Justice of the Supreme Court of the Territory of New Mexico, and Judge of the First Judicial District Thereof.

Know all men by these Presents: That we Geo. L. Shelby as Principal, and Julius A. Gerdes and Rufus J. Palen as Sureties are held and firmly bound unto the United States of America in the Penal Sum of Four Thousand Dollars lawfull money of the United States for the payment of which, well and truly to be made, We bind ourselves our heirs, executors and administrators firmly by these Presents.

In Witness Whereof We have hereunto set our hands and Seals this 8th day of November, A.D. 1894

The condition of the above Obligation is such that Whereas the said George L. Shelby had been appointed according to Law. Clerk of the Supreme Court of the Territory of New Mexico, to have and to hold said office of Clerk of said Supreme Court with all the rights privileges and emoluments thereto lawfully appertaining as by his appointment thereto appears, which appointment bears date November 1st A.D. 1894.

Now if the said George L. Shelby shall well and faithfully discharge the duties of said office according to law and seasonably record the decrees, Judgments and determinations of said Court, and properly account for all moneys coming into his hands as such Clerk according to Law, then this obligation to be void and of no effect; otherwise to be and remain

in full force and virtue.

Jno. L. Hilley (Seal)
Julius A. Gerdes (Seal)
Rufus J. Palen (Seal)

$5000.00
$5000.00

Territory of New Mexico }
County of Santa Fe. }

Julius A. Gerdes and Rufus J. Palen being duly sworn according to law, each for himself says that he is worth the sum of Five thousand dollars and above all just debts and liabilities and property exempt by law from execution, and that he is a freeholder and owner of real estate in said County and Territory.

Julius A. Gerdes (Seal)
Rufus J. Palen (Seal)

Subscribed and Sworn to before me this 8th day of November, A. D. 1894.

(Seal)

Lorin Miller
Secretary of the Territory of New Mexico.

The above and foregoing bond is taken and accepted by me as Chief Justice of the Supreme Court of the Territory of New Mexico; and is approved by me as such both as to form and sufficiency this 10th day of November. A. D. 1894

Thomas Smith
Chief Justice. Supreme Court, Territory of New Mexico.

Day. A. D. 189

In the Supreme Court of the Territory of New Mexico at a meeting of the Chief Justice and Associate Justices of the Supreme Court of the Territory of New Mexico, Convened at the City of Santa Fe on the twenty eighth day of February, 1895 in pursuance of the laws of said Territory and of Joint Rekolution No 8. of the Council and House of Representatives of the 31st Legislative Assembly approved on the ___ day of February A D 1895 at which were present,

Hon Thomas Smith, Chief Justice.
Hon Needham C. Collier, associate Justice
Hon Gideon D. Bantz, Associate Justice
Hon Humphreys B. Hamilton, Associate Justice
Hon. N. B. Laughlin, having decided the case below. not Sitting

Celso Baca
Appellee
vs
Demetrio Pena, Auditor
and Rufus J. Palen, Treasurer,
and Trancquilino Labadie,
Appellants.

604. Appeal from the District Court of Santa Fe County.

Now at this day, the above entitled cause coming on to be heard in pursuance of the stipulation of the parties thereto, filed in this Court and the argument of Counsel of said parties being heard and considered, and being fully informed and advised in the premises, and this Court proceeding to render such judgment and decree as should have been rendered in said Cause by the said District Court.

It is hereby ordered and decreed that the injunction granted and issued by said District Court enjoining and restraining said defendants respectively, Auditor and Treasurer of said Territory from issuing and paying Warrants for the several amounts certified to be due and payable to the various persons filling the several offices or employments specified in Council Joint Resolution No 5. of the 31st Legislative Assembly, be and the same is

hereby dissolved and set aside and that the demurrer of defendant Tranquilino Labadie to the bill of complainant Celso Baca, be and the same is hereby sustained and that the said bill of Complaint be and the same is hereby dismissed at the cost of said complainant in the said District Court and in this Court to be taxed by the respective Clerks thereof.

March. 2nd 1895.

Thomas. Smith. Chief Justice
N. C. Collier. Ass. Justice
Humphrey B. Hamilton, Ass. Justice
Gideon D. Bantz Associate Justice

605

Territory of New Mexico.
Ex rel George Curry.
President
vs.
Demetrio Perez. Auditor.

Error to the District Court for the County of Santa Fe.

This Cause Coming on to be heard this day upon the stipulation of the parties herein filed, and the Court having heard the argument of Counsel and being fully advised in the premises, and proceeding to enter such judgment in said cause as should have been entered by the Court of the First Judicial District for the County of Santa Fe.

It is Considered, Ordered and adjudged that the peremptory writ of Mandamus, issue out of this Court, in accordance with the prayer of Petitioner herein, Commanding Demetrio Perez, Auditor forthwith to issue his warrant upon the Territorial Treasurer payable out of any funds in the Territorial Treasury for the sum of Six Thousand, two Hundred and fifty Dollars to George Curry, as provided in Joint Resolution No. 12. and it further appearing to the Court that under the provisions of said last named resolution, the Auditor is further directed to issue his warrant to William. E. Dame for the like amount of $6250.00. and Counsel stipulating in the presence of the Court that a similar Order shall be entered herein Concerning the issuing

of a warrant to the said William. L. Dame as to the issuing of the warrant to George Curry.

It is further ordered that a Peremptory writ issue as in the cause of Relator Curry Commanding the respondent, Perez, Auditor forthwith to issue his warrant to William L. Dame, Speaker, for the like sum of $6250.00.

Done at Santa Fe, N. M. this 2nd day of March, A. D. 1895.

March. 2nd 1895.

Thomas Smith. Chief Justice
N. C. Collier, Asso. Justice.
Humphrey B. Hamilton, Asso. Justice
Gideon D Bantz. Associate Justice.

At Santa Fe New Mexico. March 11th 1895

Grover Cleveland,
President of the United States of America,
To all who shall see these Presents, Greeting
Know ye, That reposing special trust and confidence in the Wisdom, Uprightness and Learning of Gideon D Bantz, of New Mexico Territory, I Have nominated, and, by and with the advice and consent of the Senate do appoint him Associate Justice of the Supreme Court of the Territory of New Mexico, and do authorize and empower him to execute and fulfil the duties of that Office according to the Constitution and Laws of the said United States and to Have and to Hold the said Office, with all the powers, privileges and emoluments to the same of right appertaining unto Him the said Gideon D Bantz, for the term of four years from the day of the date hereof, subject to the conditions and provisions prescribed by Law.

In Testimony whereof, I have caused these letters to be made patent and the Seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the City of Washington, the 2nd day of February in the Year of our Lord one thousand eight Hundred and Ninety five and of the Independence of the United States of America the one hundred and nineteenth.

Seal

By the President
Richard Olney. Attorney General.

Grover Cleveland

Day, A. D. 189

Oath of Gideon D Bantz.

Territory of New Mexico. }
County of Grant } ss.

I, Gideon D. Bantz, of the County of Grant and Territory of New Mexico, do solemnly swear that I will administer Justice without respect to persons and do equal rights to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as Associate Justice of the Supreme Court of the Territory of New Mexico according to the best of my ability and understanding, agreeably to the Constitution of the United States! So help me God.

And I, the said Gideon D Bantz do solemnly swear that I will support the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion and that I will faithfully discharge the duties of the Office of Associate Justice of the Supreme Court of the Territory of New Mexico on which I am about to enter. - So help me God.

Gideon D Bantz

Subscribed and sworn to before me this 1st day of March, 1895.

(Seal)

Lorin Miller
Secretary of New Mexico.

Territory of New Mexico } ss.
Office of Secretary }

I have compared the preceding copy of Oath of Office of Gideon D Bantz, Associate Justice, Supreme Court of N. M. with the original thereof on record in this office and do hereby Certify the same to be a correct transcript therefrom and of the whole thereof.

Witness my hand and the Seal of the Secretary of the Territory, at Santa Fe, this 9th day of March, one thousand eight hundred and ninety five.

(Seal)

Lorin Miller
Secretary

Copy. A. C. 109

In Probate. July 2nd 1895.

United States of America.
Territory of New Mexico.

To A. B. Reading of Albuquerque in the County of Bernalillo, Territory of New Mexico.

You are Hereby appointed United States Commissioner at Albuquerque in the Second Judicial District to administer the oaths in preliminary proofs required under the homestead, timber culture and desert land, widows and final laws when the application for the benefit of these laws is presented from personal attendance at the District Land Office, the place of Distance, bodily infirmity, or other good cause. In performing the duties of this office you will be governed by the laws approved by and to the act of Congress of May 14, 1890 (26 Stat at Large page 124) and the circular of the General Land Office

Dated at Las Vegas this twenty seventh day of June A. D. 1895

(Seal) Thomas Smith.
Chief Justice

Attest, Geo. L. Wyllys.
Clerk.

United States of America,
Territory of New Mexico, County of Bernalillo.

I, A. B. Reading do Solemnly swear that I will support the constitution of the United States, and will to the best of my knowledge and ability discharge the duties of the office of United Commissioner in the Second Judicial District of the Territory of New Mexico, to administer the oaths in preliminary affidavits and final proofs required under the Homestead, timber culture and desert land laws. So help me God.

(Seal) A. B. Reading.

Sworn to and subscribed before me this 2nd day of July, A. D. 1895
B. F. Adams.
Notary Public in and for Bernalillo County New Mexico.

Day. A. D. 189

In Vacation, July 15th, 1895.

United States of America.
Supreme Court of the Territory of New Mexico.

To Guy H. Herbert, of Tularosa, in the County of Dona Ana, Territory of New Mexico.

You are hereby appointed United States Court Commissioner at, Tularosa, in the Third Judicial District, to administer, on application, by the proper persons the oaths in preliminary proofs required under the homestead, timber culture and desert land affidavits and final laws when the applicant for the benefit of these laws, is prevented from personal attendance at the District Land Office, by reason of distance, bodily infirmity, or other good cause. In performing the duties of this office, you will be governed by the laws above referred to, the act of Congress of May 26, 1890. (26, Stat. at large, Page 1281) and the Rules of the General Land Office.

Dated at Las Vegas, this twenty-seventh, day of June, A. D. 1895.

(Seal)

Thomas. Smith.
Chief Justice
attest, Geo L. O'Reilly. Clerk.

United States of America.
Territory of New Mexico, County of Dona Ana,

I, Guy H. Herbert, do solemnly swear that I will support the constitution of the United States, and will, to the best of my knowledge and ability, discharge the duties of the office of United Commissioner, in the Third Judicial District of the Territory of New Mexico, to administer the oaths in preliminary affidavits and final proofs required under the homestead, timber culture, and desert land laws. So help me God.

Guy H. Herbert,
Sworn to and subscribed before me, this eighth day of July, 1895
Abner. N. Blazer.
Notary Public.

(Seal)

On motion of F. M. Dancy, Esq. It is ordered by the Court that Donaciano Chavez, a member of the bar of the Fifth Judicial District be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this Court, and thereupon he appears in open court and takes the official oath prescribed by the rules of this Court.

On motion of E. B. Catron Esq. It is ordered by the Court that Elmer E. Veeder, a member of the bar of the Fourth Judicial District be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this Court.

On motion of A. A. Jones Esq. It is ordered by the Court that C. A. Larrazolo, a member of the bar of the Fourth Judicial District be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this Court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this Court.

On motion of H. B. Childers Esq. It is ordered by the Court that Edwards D. Hedderich, a member of the bar of the Second Judicial District be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this Court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this Court.

On motion of H. L. Warren Esq. It is ordered by the Court that Richards M. S. Bryan, a member of the bar of the Second Judicial District be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this Court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this Court.

On motion of H. L. Warren Esq. It is ordered by the Court that William H. Cobe, a member of the bar of the First Judicial District be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this Court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this Court.

It is ordered by the Court that Edgar L. Wilson, Maximo Aguirre and Manuel Sandoval be and they hereby are

Fifth Day, A. D. 1892

Thomas Smith

Second Day. Tuesday. July 30. 1895

Court meets pursuant to adjournment.

Present, as upon yesterday

The records of yesterdays proceedings is read and approved.

It is ordered by the Court that the following Rule be spread upon the record.

Rule XXV.

Printing Transcripts and Briefs.

The copies of transcripts of records and points and authorities to be furnished the court and opposing counsel, shall be printed on white paper, with a margin on the outer edge of the page not less than one and a half inches wide. The printed page, exclusive of any marginal note or reference shall be seven inches long and three and a half inches wide. The folio numbering from the commencement to the end of the papers, shall be consecutive from number one up, and shall be printed on the outer margin of the page.

In this cause it is by Calvin Esquire, a member of the Bar of this Court, it is Ordered that Charles A. Spiess, Jr. be, by and he is hereby admitted as a member of this Court entitled of record on behalf of the plaintiff in error in this cause in accordance with the rules of this Court and that he be entitled to practice in this Court with all the rights and privileges thereunto belonging.

No. 151. Ramon Gonzalez, Plaintiff in Error, vs. Appeal from 3rd Judicial District.
Isidora Cruz Velarde, Defendant in Error.

No. 152. Ramon Gonzalez, Plaintiff in Error, vs. Appeal from 3rd Judicial District.
Isidora Gonzalez, Defendant in Error.

The Court being informed that counsel having been regularly set for hearing upon today, the said plaintiffs came by their attorney E. B. Newcomb Esq. and move the Court, for reasons stated in their motions on file, to dismiss said causes; and it appearing to the court that at a former term of this court, an order was entered of record requiring the said appellee to produce and file in this Court the transcripts in record and bills of exception in said causes, and that said appellee has failed to comply with said order, and

Thomas Fitch

Third Day. Wednesday, July 31, 1895

Court met pursuant to adjournment

Present as before Saturday

The records of yesterdays proceedings is read and approved.

Carrie Cobb Company, Plff. in Error
vs.
Miriam Goodson, et al

Error to District Court of Eddy County.

On motion of said Plaintiff in error by its attorney, E. C. Watson Esq. It is ordered by the Court that this cause be set for hearing upon August 9, 1895, after the causes already set for that day have been disposed of.

Overshaw Fields and Company et al Plffs. in Error.
vs.
L. Romero and Company et al. Defts. in Error

Error to District Court of San Miguel County.

This cause coming on for hearing upon the transcript of records and the briefs of plaintiffs in error on file, is argued by E. C. Watson Esq., for plaintiffs in error, no one appearing for defendants in error and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

Thomas B. Catron a Commissioner in the Court of the United States for the District of New Mexico, residing at Albuquerque has presented to the Court an account of his fees as such Commissioner, from this 1st day of April 1895 to the 30th day of June 1895, and in the absence of U. S. Att'y Hemingway the District Attorney of the United States in and for said District, has sworn on oath to the satisfaction of the Court, that the services therein charged for have been actually and necessarily performed as therein stated, and the same appearing reasonable and according to law, It is therefore ordered that said account, amounting to the sum of five hundred and forty eight dollars, and no cents be and the same is hereby approved

Whereas Robt. D. Bryan, a Commissioner of the Court of the United States for the District of New Mexico residing at Albuquerque has presented to the Court an account of his additional fees as such Commissioner to the 30th day of June, 1895, and in the absence of U. S. Att'y Hemingway the District Attorney of the United States in and for said District, has sworn on oath to the

satisfaction of the court, that the services therein charged for have been actually and necessarily performed as therein stated, and the same appearing reasonable and according to law, It is therefore ordered that said account amounting to the sum of Fifty six dollars and ten cents be and the same is hereby approved.

Whereas Manuel C. de Baca a Commissioner of the District Court of the United States for the Fourth District of New Mexico has rendered an account of his fees from the first day of April 1895 to the 30th day of June 1895, with the vouchers and items thereof in open Court, and in the presence of J. B. Hemingway Esq., the District Attorney of the United States for said District, on oath, and it appearing to the satisfaction of the Court that the services therein charged for have been actually and necessarily performed as therein stated, and said charges appearing to be just and according to law, It is hereby ordered that said account amounting to Two hundred and forty nine and 10/100 Dollars be, and the same is hereby allowed

Territory of New Mexico
vs.
Patrick Carmody et al.

381

Now comes the Territory, by its attorney General, and files with the Clerk a motion for the dismissal of this cause upon the docket, and affirms that said motion be entered now as of the 20th ult, now on motion of J. B. Hemingway, District Attorney it is ordered that the said Territory be and it is hereby permitted to file said motion nunc pro tunc, and the same is filed this 31st day of July, 1895.

Territory of New Mexico
vs.
Patrick Carmody et al

384

Now comes Patrick Carmody, defendant in the cause wherein the Territory of New Mexico is plaintiff and Patrick Carmody et al are defendants, from the District Court for the County of Socorro, and wherein the appeal of defendants was dismissed by this Court at the January term 1889, said cause being numbered 384, on the Calendar of this Court at said term, and moves the Court to reinstate said cause upon the docket of this Court at the instant term thereof for the reasons set forth in said motion, and the Attorney for the said having notice of said motion, it is so ordered this the same is and hereby is set down for hearing at the incoming of

Court on tomorrow, August 1. 1895.

It is ordered that Court do now adjourn until tomorrow morning at nine o'clock.

Thomas Smith
Chief Justice

Fourth Day. Thursday, August 1. 1895.

Court meets pursuant to adjournment

Present, as upon yesterday.

The records of yesterdays proceedings is read and approved.

In re Application of James Addison Craftanavis — Habeas Corpus.

Upon reading and filing the petition of James Addison Craftanavis stating himself named Addison Craftanavis, It is ordered by the Court that a writ of habeas corpus returnable at this term in the absence of this day, issue to the United States Marshal, of the District of New Mexico, requiring him to produce the body of said petitioner before this court.

752 Exchange Bank of Raton — vs. — Garnishment under Execution.

Wm B. Fields and Atchison, Topeka and Santa Fe Railroad Company, Garnishee

Now comes the said Plaintiff by its attorney H. L. Fitch Esq., and moves the Court to dismiss this proceeding, and the Court grants said motion: It is therefore considered and adjudged by the Court that this proceeding be, and the same hereby is dismissed, and the said defendant garnishee do have and recover of the said Exchange Bank of Raton their costs in this behalf expended to be taxed, and that they have execution therefor.

Fourth Day, [illegible] A. D. 1894.

Thomas Smith

Fifth Day. Friday. August 2. 1895

Court meets pursuant to adjournment

Present, as upon yesterday.

The records of yesterdays proceedings is read and approved.

5754 John S. Knight, Etal, Appellees

vs. Appeal from Burnalee County

Texas Southern R.R. Co, Etal Appellants

This cause coming on for hearing upon the transcript of records, assignments of error and briefs of counsel on file, is argued by E.A. Fisher Esq, solicitor for said appellants Lehman Spiegelberg and Bernard Deliganan, by Easton & Spiess solicitors for said appellant Antonio Ortiz y Salazar, and by H. L. Harris Esq, solicitor for said appellant Charles H. Gildersleeve; also by H.B. Childers Esq., solicitor for said appellees, and said cause is submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that court do now adjourn until tomorrow morning at nine o'clock.

Thomas Smith

Chief Justice.

Sixth Day, Saturday, August 3rd 1895.

Court meets pursuant to adjournment

Present, as upon yesterday,

The record of yesterday's proceedings is read and approved.

384 Territory of New Mexico, Appellee
vs.
Patrick Baranedy, et al, Appellants
Appeal from Socorro County

Now come the said appellants by their attorneys N.B. Field and H.L. Warren Esquires, and move the Court for reasons stated in their motion on file, to re-instate this cause upon the docket of this court, and said motion being argued by said appellants and by L.S. Victory Esq, Assistant Attorney General for Appellee, is submitted to the Court, and the Court being fully advised in the premises, grants said motion; It is therefore ordered by the Court that said motion be and the same hereby is granted, and that this cause be and the same hereby is reinstated upon the docket of this Court, and set for hearing on August 26, 1895.

575 Pedro Perea, Administrator, Appellee
vs.
George N. Harrison, Administrator, et al, Appellants
Appeal from Bernalillo County.

This cause coming on to be heard upon the transcript of record, assignment of errors and motion to dismiss on file, as argued by H.B. Childers and E.A. Fiske Esquires for said appellants and by N.B. Field Esquire for said appellee and submitted to the Court, and the court not being sufficiently advised in the premises, takes the same under advisement.

610 Abraham D. Coon, Appellee
vs.
Bosque Bonito Land and Cattle Co, et al Appellants
Appeal from Bernalillo County

Now comes the said appellee by his solicitor N.B. Field Esq, and moves the Court for reasons stated in his motion on file, to dismiss the appeal of appellants taken herein, and said motion being fully argued, H.B. Childers Esq., appearing for said appellants, further argument is set for August 4th, 1895, with leave to said appellee to amend his said motion by inserting therein additional reasons for the granting thereof.

It is ordered that court do now adjourn until next

Sixth Day, Saturday, August 3rd A. D. 1895

Monday morning at ten o'clock.

Thomas Smith
Chief Justice

Sixth Day, Saturday, August 3. 1895

Court met pursuant to adjournment

Present, as before, Saturday last, and also The Honorable Gibson A. Gantz, Associate Justice.

The record in Saturday's proceedings is read and approved.

No. 795 — Error to Lincoln County.

Now comes the said defendant in error by E. L. Bartlett Esq. acting on behalf of the District Attorney of Lincoln County and the Solicitor-General for New Mexico, and moves the Court for reasons stated in her motion on file, to dismiss the writ of error herein, and said motion being argued by said E. L. Bartlett for defendant in error and H. B. Ferguson Esq. for Plaintiffs in Error, is submitted to the Court, and the Court not being fully advised in the premises, takes the same under advisement: and thereupon the said Plaintiffs in error move the Court for leave to file an amended assignment of errors herein, and said motion being argued by counsel, as well for said defendant in error as for said Plaintiffs in Error, is submitted to the Court, and the Court not being fully advised in the premises, takes the same under advisement.

579 Charles Berk, et al, Appellants
v.
Guadalupe Miranda, et al, Appellees
Appeal from Dolfax County

581 The Kearney Land Grant & Railway Co, et al, Appellees,
v.
Guadalupe Thompson, et al, Appellants
Appeal from Dolfax County

Now come the appellees in the foregoing two causes by their Solicitor Frank Springer Esq. and move the Court to dismiss said appeals for the reason that said appellants have failed to file assignments of error in said causes, and said motion being argued by Counsel, as well for said appellants as for said appellees, Messrs Freeman and McNeal appearing for said appellants, further argument of said motion is set for August 7th. 1895, with leave to said appellants at any time on or before said date to show cause against said motion, and to file a motion or application to file assignments of error in said causes; and it is ordered by the Court that the Clerk of this Court place the file marks upon the dockets of Counsel in Cause No. 579. nunc pro tunc as of August 7th. 1894

795 Cecilio Salazar, et al Plffs. in Error
v.
Territory of New Mexico, Defdt in Error
Error to Lincoln County

The cause coming on for further hearing upon the motion of said defendant in error to dismiss the writ of error herein, and the motion of said plaintiffs in error for leave to file amended assignments of error herein, the Court being now fully advised in the premises, doth deny the motion of said defendant in error, and grant the motion of said plaintiffs in error. It is therefore ordered by the Court that the motion of said defendant in error be and the same hereby is denied and that the motion of said plaintiffs in error be and the same hereby is granted.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice.

Eighth Day. Tuesday. August 6. 1895

Court meets pursuant to adjournment.

Present as upon yesterday.

The records of yesterdays proceedings is read and approved.

585 James T. Johnson, et al. Appellees
vs.
Socorro Barbeyo, Sheriff, et al, Appellants
Appeal from Mora County.

By agreement of said parties by their respective Attorneys, It is ordered by the Court that this cause be, and the same hereby is set for hearing on August 28. 1895.

582 Doroteo Martin de Cordova, et al. Appellants
vs.
Manuel Sarta, et al. Appellees
Appeal from San Miguel County.

The cause coming on for hearing upon the transcript of records, assignment of errors and briefs of counsel on file, as argued by Messrs Catron and Wilder for said appellants and Messrs Long & Fort for said appellees, and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

[illegible]

Thos Smith
Chief Justice.

Ninth Day, Wednesday, August 7, 1895

Court met pursuant to adjournment

Present as upon yesterday.

The records of yesterdays proceedings is read and approved

559 United States of America, Appellee
vs.
Daniel De Vivero, Appellant

Appeal from Sixth District.

It is ordered by the Court that this cause be set for the same hereby is set for hearing at the last day of the present term, unless sooner disposed of at the convenience of the Court.

586 Juan C. Gurule, Plaintiff in Error
vs.
United States of America, Defendant in Error

Error to First Judicial District.

The case coming on for hearing on this the 7th day of August, the defendant in error by attorney presents to the Transcript of the records of said case from the first judicial district court which is duly ordered this court view, and said case is upon the motion of said attorney for defendant in error submitted upon said transcript, and the judgment of the lower court is hereby affirmed for as it appears from said transcript that the said Juan C. Gurule was at the duly term 1894 of the district court for the First Judicial District of N. M. convicted of the crime of adultery and sentenced to imprisonment in the penitentiary for the term of one year and that on the 2nd day of July 1895 the said Juan C. Gurule was granted an appeal to this Court and that the said Juan C. Gurule has failed to, prosecute his appeal, and has failed to present the said appeal in this court either in person or by attorney; Heretofore, upon motion of the attorney for the United States, the appellee herein, the said appeal of said Juan C. Gurule is hereby dismissed. It is further ordered that the mandate of this court issue to the Marshal of this Territory commanding him to take the said Juan C. Gurule into custody and deliver him at the Territorial penitentiary in execution of the judgment and sentence of the said First Judicial District Court, the term of imprisonment to commence today & be for the period of one year. And it is further ordered and adjudged that the said United States defendant in error and appellee herein, do have and recover of the said Juan C. Gurule the

costs of said proceeding in error and upon appeal herein be
fore mentioned

Abraham D. Coon, Appellee.

611. vs

Appeal from Bernalillo County.

Rio Grande Lumber & Cattle Company, Etal, Appellants

This cause coming on for further argument upon
the motion of said Appellee to dismiss the appeal of Appel-
lants herein, it appearing by G. W. Prichard Esq. for Appellee and
H. B. Childers Esq for Appellants and submitted to the Court,
and the Court not being fully advised in the premises, takes
the matter under advisement.

And it appearing that this cause cannot be
reached to be heard

Thomas Smith

Chief Justice.

Tenth Day, January Term, August 8, 1895.

Court met pursuant to adjournment.

Present, the Hon. Thomas Smith

Judge presiding.

The minutes of yesterday's proceedings read and approved.

Thereupon, Defendant in Error, Dakota Southern Railway Co. by its Attorney H. G. Shuler in open Court, moves to dismiss Appeal herein, and Defendant in Error, Dakota Southern Railway Co. by its Attorney H. G. Shuler in open Court, moves to affirm the Judgment of the Court below herein, and the Court having fully advised in the premises, takes said motions under advisement.

Thereupon, Defendant in Error, Dakota Southern Railway Co. by its Attorney H. G. Shuler in open Court, moves the Court to affirm the Judgment of the Court below herein, and the Court not being fully advised in the premises, takes said motion under advisement.

Thomas Smith
Chief Justice.

Eleventh Day, Friday, August 9, 1895

Court met pursuant to adjournment

Present, as upon yesterday

The records of yesterdays proceedings is read and approved

In re, application of Adolfo Chavez for writ of Prohibition

Now comes the said Adolfo Chavez by his attorney E. L. Bonney, and moves the Court for reasons set forth in his affidavit on file, for a rule on said Juan Antonio Chavez to show cause why he should not be punished for contempt of this Court in having disobeyed the command of the writ of Prohibition heretofore issued herein; and the Court being sufficiently advised in the premises, and on such motion; It is therefore ordered by the Court that the said Juan Antonio Chavez be and he is hereby required to show cause before this Court, on the twelfth day of August 1895, at ten o'clock in the forenoon of said day, at the Court House of Santa Fe County, in the City of Santa Fe and Territory of New Mexico why he should not be punished for contempt in having disobeyed the commands of the writ of Prohibition heretofore issued herein.

Error to Doña Ana County

In the matter of the application of Juan Antonio Chavez for a writ of Error

To the Hon. E. Kelly Clerk of this Court.

Sir: You are hereby notified that I have this day filed my petition for a writ of Error to the District Court of the County of Doña Ana, returnable from the 4th day of this present term of this Court, and that I will on the first day of the next term of this Court, to wit, on the 4th day of November A. D. 1895, make application for the allowance of said writ of Error, and will then and there present a bond in the sum of Two Hundred Dollars, conditioned according to law, and ask that a writ of Error be allowed, returnable from the 4th day of this present term of this Court, to wit, on the 4th day of November A. D. 1895, make return of the execution issued herein and that the judgment rendered by the District Court of Doña Ana County,

550

said Atagrasia Archuleta de Rosales and deliver her to the Superintendent of the Territorial Penitentiary of N.M., to be there kept according to the rules, regulations and discipline of said Penitentiary for the term of One year from the date of her incarceration. And the said Atagrasia Archuleta de Rosales having failed to prosecute her appeal to this Court, as she was bound to do by the order of said lower Court granting her an appeal therein and having been three times solemnly called and failed to appear or to appear in this Court: And Rafael Andres Rivera and Bartolo Fino, the sureties on the said appeal bond of said Atagrasia Archuleta de Rosales having been three times solemnly called and required to produce the person of said Atagrasia Archuleta de Rosales as they were bound by their said bond to do: and having failed to do so, it is therefore ordered and adjudged that the said bond be forfeited, and that the said Atagrasia Archuleta de Rosales and her said sureties on her said appeal bond be declared in default and that the said bond be declared forfeited, and that the United States of America the appellee herein be entitled to have any further action entitled to have and recover of said appellant and her said sureties the amount of said bond.

And it is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith

Chief Justice.

[illegible]

[illegible]

[illegible]

Thirteenth Day. Monday, August 12th A. D. 1895.

Thirteenth Day. Monday, August 12th 1895

Court mete pursuant to adjournment

Present as when Saturday last, and also Hon. Thomas Smith, Chief Justice.

The records of Saturdays proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice.

Present Hon. Thomas Smith Chief Justice.

Court met pursuant to adjournment.

Present as when adjourned

The records of yesterdays proceedings is read and approved.

Thomas Smith et al, plaintiffs in Error
vs. } Error to Eddy County.
Thomas Hennessy et al, Defendants in Error

This cause coming on to be heard upon the transcript of record, assignment of errors and brief of Plaintiffs in error on file, as argued by Mr. Dillon and Mr. D. Ticknett Reserves, for said Plaintiffs in error and submitted to the Court, and the Court being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock

Thomas Smith
Chief Justice

Fifteenth Day, Wednesday, August 14th, 1895.

Court met pursuant to adjournment.

Present, as upon yesterday.

The records of yesterdays proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith

Dist. Justice

Fifteenth Day, Wednesday, August 14th, 1895.

Court met pursuant to adjournment.

Present, as upon yesterday.

The records of yesterdays proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith

Dist. Justice.

Seventeenth Day, Friday, August 16th 1895

Court met pursuant to adjournment

Present, as upon yesterday, except the Hon. D. D. Bantz, Associate Justice;

Also Present, the Hon W. E. Collier, Associate Justice

The minutes of yesterday proceedings are read and approved.

On motion of Mr. L. Nairn Esq, It is ordered by the Court that Daniel A. Ewart a member of the Bar of the Second Judicial District Court be and is hereby admitted to practice as an Attorney, Solicitor and Counselor of this Court and the thereupon entered in open Court and take the official oath prescribed by the laws of the State.

On motion of T. C. Knowles Esq, It is ordered by the Court that Daniel A. Ewart be and is hereby admitted to practice as an Attorney, Solicitor and Counselor of this Court, and he thereupon entered in open Court and take the official oath prescribed by the laws of the State.

Ewart to Humboldt County

Fourteenth Day, Friday, August 16. A. D. 1895

[illegible] adjourned in the premises [illegible] the same under advisement.

It is Ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice.

[illegible]

[illegible]

[illegible]

Nineteenth Day Monday, August 19. 1895.

Court meets pursuant to adjournment.

Present. as when Saturday last, and also Hon. S. D. Bantz, Associate Justice.

The records of Saturdays proceedings is read and approved.

606 Francis X. Clark, Plff in Error
vs
William Carmichael, Etal, Defts. in Error } Error to Bernalillo County.

The cause coming on for further argument, is argued by W. B. Childers Esquire for said defendants in error and T. B. Catron, Esquire for said Plaintiff in error, and submitted to the Court, and the Court not being sufficiently advised in the premises take the same under advisement.

619 In the matter of the disbarment of Stiles Evans } Appeal from Bernalillo County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by N. B. Field Esq. for appellants and A. B. McMillen Esq for appellees, and submitted to the Court, and the Court not being fully advised in the premises, takes the same under advisement.

Territory of New Mexico, Appellee
vs
Jose Inez Gallegos, et al, Appellants } Appeal from Santa Fe County.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by Frank Catron Esquire for appellant and by H. H. Pope Esquire for appellee and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

William H. Bowker, Trustee, Appellee
vs
The Santa Fe Mining & Milling Co. et al, Appellants. } Appeal from Santa Fe County.

It is stipulating to the court, from the transcript and original papers on file in the above entitled cause, that, more than twelve months prior to the twenty first day of January, 1895, a final decree of foreclosure was rendered in the above entitled cause by the district court of the third judicial district of the Territory of New Mexico, in and for the county of Sierra, which said decree was recorded in the clerks office of said district court, on the

twenty first day of January, 1895, and it further appearing that on said twenty first day of January, 1895, a further order and decree was entered in said cause by said district court, whereby the amount due from said defendant The Standard Gold Mining and Milling Company, to the said complainant William H. Bucher, Trustee, was ascertained to be the sum of sixteen thousand and twelve dollars and thirty four cents, together with interest thereon from the twenty first day of July A.D. 1894, at the rate of twelve per cent per annum, until paid, which said sum the said court then and there decreed to be due and coming to the said complainant on account of the indebtedness secured by the mortgage for the foreclosure of which the bill in this cause was filed; and it further appearing that said court by said last mentioned order and decree directed that out of the proceeds of the sale of said property there should be paid to the Clerk of said district court the sum of five hundred dollars, out of which the solicitors fee for complainant for the supplemental proceedings in said cause should be paid when ascertained and determined by said court, and it further appearing to the Court that by the above mentioned order of the twenty first day of January, 1895, Max H. Koehler was appointed special master in said cause and directed to make sale of said property by giving notice of the time and place of said sale, as specified in such order, and it further appearing to the Court that on the first day of June A.D. 1895, an order was entered in the above entitled cause whereby it was among other things provided that William H. Bucher should take charge and control of the property described in the bill of complaint in said cause and protect and care for the same until a sale of said property should be made under the direction of said court, and that the expense of such care and preservation of said property should be paid out of the proceeds of the sale of said property, and it further appearing to the court that on the twenty day of June, 1895, an appeal from the judgments and decrees and proceedings in said cause subsequent to the above first mentioned decree rendered more than twelve months prior to the twenty first day of January, 1895, was granted by the said district court to the Supreme Court of the Territory of New Mexico, and it further appearing to the Court that said appellant has failed to file any transcript of the records in said cause in the court as required by the statute in such case made and provided, and it further appearing that William H. Bucher Trustee and appellee herein, has filed in the court a transcript of the record in said cause, together with the original papers in said cause, Now Therefore, upon motion of said appellee by his Solicitor O.A. Jones Esq., and the said appellant appearing by W.B Childers Esq., its solicitor, and consenting thereto. It is ordered, adjudged and decreed by the court that all said orders, judgments and decrees hereinbefore united and made in said cause be and the same are hereby affirmed, and the said special master Max H. Koehler be and he is hereby authorized and directed forthwith to advertise and sell the property described in the bill of complaint in this case, in the manner specified

in and in accordance with the terms of said decree of January 21st 1895, and to report his proceedings in reference thereto to the said district court for its approval and confirmation, and the said district court is hereby directed and authorized to fully carry out and execute or cause to be executed said several decrees hereinbefore entered, in accordance with the terms thereof and of this decree, and it is further ordered, adjudged and decreed by this court that there be paid out of the proceeds of the sale of said property all the costs incurred in this cause in the said district court, as well as in this court, the costs of the sale of said property, the costs of the care and preservation of said property by William H. Bucher, trustee, to be ascertained and fixed by the said district court, the solicitors fee of Complainant, for the supplemental proceedings in said cause, which this court hereby determines and fixes at the sum of five hundred dollars, and to the complainant for and on account of the indebtedness secured by the mortgage annexed to the bill of complaint in this cause, the sum of sixteen thousand and twelve dollars and thirty four cents, together with interest thereon at the rate of twelve per cent per annum, from the twenty-first day of July, 1894, up to the date of such payment.

It is ordered that Court do now adjourn until tomorrow morning at half past nine o'clock.

Thomas Smith

Chief Justice

Twentieth Day, Tuesday, August 20, 1895

Court met pursuant to adjournment,

Present, as upon yesterday.

The records of yesterdays proceedings were read and approved.

H55

Marshall Fuld & Company, Etal, Plffs. in Error
vs.
McNamara & Company, Etal, Defts. in Error

Error to San Miguel County

The cause having been argued by counsel and submitted to, and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Hamilton, Chief Justice Smith and Associate Justices Collier and Gaughlin concurring, reversing the decree of the court below for reasons stated in the opinion of the court on file: It is therefore ordered, adjudged and decreed by the Court that the cause be and the same hereby is remanded to the District Court in and for the County of San Miguel where the cause came into this court with instructions to said court to enter a decree cancelling and setting aside the date of assignment herein, and for such other orders as may be necessary; and it is further ordered, adjudged and decreed by the court that said defendants in error Mc Namara and Company, Margarita Romero, Benito Perea Marquez and Manuel Baca y Ortiz pay all costs in the behalf expended, as well in the court below as in this court, to be taxed, and that execution issue therefor.

H70

Edmundo D. Rolando, Plff in Error
vs.
Lorenzo Lopez, Assignee of Andres Pino, Deft. in Error

Error to San Miguel County.

The cause coming on upon the motion of said defendant in error, filed at a former term of this court, the court being now sufficiently advised in the premises, announces its decision denying said motion, by Associate Justice Collier, Chief Justice Smith and Associate Justice Gaughlin concurring, for reasons stated in the opinion of the court on file; It is therefore ordered by the court that said motion be and the same hereby is denied

for a rehearing of this cause,

G11

Abraham D. Coon, Appellee
vs.
Bosque Bonito Land and Cattle Company Etal, Appellants

Appeal from Bernalillo County

The cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel on file, as argued by W. B. Childers Esq. for said appellants and G. B. Fitch Esq. for said appellee and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

576 Pancho Bento and Annie D. Bento, Plffs. in Error
vs.
Barbara Lovato, Defdt. in Error
Error to Doña Ana County.

559 The Morris Daney Publishing Company, Plff. in Error
vs.
Adelbert D. Wells, Defdt. in Error
Error to Doña Ana County.

It appearing to the Court that Guadalupe Ascarate, Sheriff of the County of Doña Ana, against whom a writ was issued by this Court on August 9, 1895, requiring him to at once make return of the execution issued out of this Court in the foregoing two cases directed to him, and now in his hands, has failed to make such return or to show cause why they have not been made, It is now ordered by the Court that an attachment directed to the United States Marshal of the District of New Mexico, issue for the arrest of the said Guadalupe Ascarate, Sheriff as aforesaid.

On motion of R. H. Hanna, Esq. it is ordered by the Court that Ernest Knaebel, a member of the bar of the First Judicial District Court of New Mexico, be and he hereby is admitted to practice as an attorney, solicitor and counselor of this Court, and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

It is ordered that Court do now adjourn until tomorrow morning at half past nine o'clock.

Thomas Smith

Twenty First Day, Wednesday, August 21. 1895.

Court met pursuant to adjournment,

Present, as upon yesterday.

The records of yesterdays proceedings is read and approved.

624 Sperling Brothers, Plaintiffs in Error
vs.
William Garlands, Garnishee

Error to Dodge County.

Now come the said plaintiffs in error and say to the court here that they will not further prosecute their writ of error herein but desire the same; It is therefore considered and adjudged by the court that the said William Garlands, Garnishee of the Short Horn Beef Company as to said writ of error, do have without day, and recover of the said Sperling Brothers the costs in this behalf expended as well in the court below as in this court to be taxed, &c, that the have execution therefor

625 Joseph E. Davis Receiver &c. in Error
vs.
Stephen M. Folsom, Defdt. in Error

Error to Carnelian County

The cause coming on for hearing upon the transcript of record, assignment of error and briefs of counsel on file, is argued by W. B. Childs Esq. for said plaintiff in error and by Mr. Ryan, Esq. for said defendant in error and submitted to the court upon the printed briefs on file herein, the same not being sufficiently advised in the premises, takes the same under advisement

623 United States of America, Appellant
vs.
Otto Kiesa, Appellee

Appeal from Second Judicial District.

The cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel on file, is argued by A. J. Cooley Esq. for said appellant and by Mr. Ryan Esq. for said appellee and submitted to the court, the same not being sufficiently advised in the premises, takes the same under advisement

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith

Twenty-Second Day, Thursday, August 22nd 1895

Court meets pursuant to adjournment.

Present, as upon yesterday, except Hon. Thomas Smith, Chief Justice.

The records of yesterdays proceedings is read and approved.

On motion of H. B. Ferguson Esq. It is ordered by the Court that Thomas A. Finical Esq. a member of the bar of the Second Judicial District Court, be and he hereby is admitted to practice as an attorney, solicitor and counselor of this Court and he Ferguson appears in open Court and takes the official oath prescribed by the rules of this Court.

626 Territory of New Mexico, Appellee
vs.
[illegible], Appellant

Appeal from Bernalillo County.

On agreement of said parties by their respective attorneys, It is ordered by the Court that this cause be, and the same hereby is continued until the next term of this Court.

674 Territory of New Mexico, Appellee
vs.
Francisco Gurulan, Appellant

Appeal from Bernalillo County.

The cause coming on for hearing upon the transcript of record, assignment of errors, and brief of counsel on file, and submitted by the Court not being sufficiently advised in the premises, takes the same under advisement.

624 H. M. Atkinson, Appellant
vs.
E. E. Watson, Appellee

Appeal from Bernalillo County.

It is ordered by the Court that this cause be, and the same hereby is re-set upon hearing on August 26th 1895.

625 Territory of New Mexico, Appellee
vs.
Tom Childers, Appellant.

Appeal from Bernalillo County.

The cause coming on for hearing upon the transcript of record, assignment of errors, and brief of counsel on file, as argued by H. B. Ferguson and Thomas A. Finical Esquires for said Appellant and H. B. Childers and H. H. Cobb Esquires for said

Thirty second Day, Thursday, August 7th A. D. 1895

[illegible] Ellen Smith [illegible] Ellen Smith

vs. } Error to Lincoln County

[illegible] Ellen Smith [illegible] Ellen Smith

This cause coming on for hearing upon the transcript of record and briefs of counsel on file, it is ordered by the Court, that each plaintiff in error and W. F. Wilson for [illegible] interested in error, do submit to the Court, upon the Court rule now existing, as to the [illegible] the cause under advisement.

It is ordered that Court do now adjourn until tomorrow morning at half past nine o'clock.

Thomas Smith

Twenty-Third Day. Friday. August 23. 1895

Court meets pursuant to adjournment.

Present, as upon yesterday, and also Hon. Thomas Smith, Chief Justice

The records of yesterdays proceedings is read and approved.

628 Addison M. James, Etal, Appellees. vs. Horace Baumann, Etal, Appellants } Appeal from Lincoln County.

This cause coming on for hearing upon the transcript of record, assignment of errors and brief of counsel on file, is argued by H B. Ferguson Esq. for said appellants and W. T. Thornton Esq. for said appellees, and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

638 In the matter of Guadalupe Ascarate Sheriff of the County of Doña Ana } Contempt.

Now comes the United States Marshal into open Court and presents to the Court here the body of the said Guadalupe Ascarate in obedience to the writ of attachment heretofore issued herein, and the Court after reading the affidavit of the said Guadalupe Ascarate, discharges him from custody upon his paying all Costs in this proceeding incurred, to the date. It is therefore considered and adjudged by the Court that the said Guadalupe Ascarate, as to said attachment be fined without day, upon payment by him of all Costs in the proceeding incurred, to the date.

It is ordered by the Court that the appointment of Edward Bartlett United States Commissioner, and the oath of office as such be spread upon the records, which is accordingly done in words and figures following, to wit:-

United States of America
District Court of the Territory of New Mex
In Lincoln County of Lincoln in the County of Lincoln.
the Territory of New Mexico.

Now are hereby appointed United States Court Commissioner at Lincoln in the Second Judicial District, to administer, on application, to the proper persons the oaths in preliminary proofs required under the Homestead, timber culture and desert land affidavits and final proofs when the applicant for the benefit of these laws, is prevented from personal attendance at the District Land Office, by reason of distance, bodily infirmity, or other good cause.

In performing the duties of this office, you will be gov-

with say the laws above referred to, the Act of Congress of May 2d 1890 (26 Stat. at Large, page 1226) and the rules of the District Courts of New Mexico

Dated at Santa Fe this twenty first day of August, A.D. 1895

Thomas Smith, Chief Justice

Attest, Geo. W. Ryley, Clerk.

United States of America
Territory of New Mexico
County of Bernalillo

I, Edwards Hart do solemnly swear that I will support the Constitution of the United States and will, to the best of my knowledge and ability discharge the duties of the office of District Attorney in the Second Judicial District of the Territory of New Mexico to administer the oaths on preliminary affidavits and final proofs required under the homestead, timber culture and desert land laws so help me God.

Edwards Hart

Sworn to and subscribed before me this twenty first day of August A.D 1895

Frank Owen.
Notary Public.
My commission expires Jan 30, Bernalillo County

Territory of New Mexico Appellee
vs
James Salazar and Silvestre Chavez Appellants

The cause coming on for hearing upon the transcript of record, assignment of errors and brief of counsel on file, is argued by W. H. Pope and Charles A. Spiess for said appellants and by U.S. Attorney Geo. Johnston. Hurd for said appellee, and submitted to the Court, and the Court not being sufficiently advised in the premises take the same under advisement.

It is ordered by the Court that a rule [illegible] permanent mandate at [illegible]

Thomas Smith

Twenty-Fourth Day, Saturday, August 24th 1895

Court met pursuant to adjournment.

Present, as upon yesterday

The records of yesterdays proceedings is read and approved.

Antonio Martin de Cordoba, et al, Appellants,
vs
Henry Scott, et al, Appellees

Appeal from San Miguel County.

This cause having been argued by Counsel and submitted to, and taken under advisement by the Court upon a former day of the present term the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Bantz. Chief Justice Smith and Associate Justices Collier, Hamilton and Baughlin concurring, reversing the decree of the Court below, and remanding the cause to said Court with directions to enter a decree in conformity with the findings and recommendations of the master, and for such further proceedings as the nature of the case may require. It is therefore considered and adjudged by the Court that the decree of the District Court in and for the County of San Miguel whence this cause came unto this Court be, and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court with directions to enter a decree in conformity with the findings and recommendations of the master and for such further proceedings as the nature of the case may require. It is further considered and adjudged by the Court that said appellees pay to the said appellants their costs in this behalf expended and that they have execution therefor.

Martin Valdez, et al, Appellants in Error
vs
Antonio Montoya, et al, Appellees in Error

Error to Lincoln County.

This cause having been argued by Counsel and submitted to, and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justices Bantz, Chief Justice Smith and Associate Justices Collier, ~~Hamilton~~ and Baughlin concurring reversing the judgment of the Court below and remanding the cause for a new trial, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the judgment in this cause of the District Court in and for the County of Lincoln whence this cause came into this Court, be and the same hereby is reversed, and that this

Paul &c, and the same hereby is remanded to said District Court with directions to grant a new trial thereof.

764 The Oak Grove and Aurora Herd Cattle Company, Plff. in Error
vs.
E. L. Foster, Receiver of the First National Bank of Ennis, Deft. in Error
Error to Grant County

This cause having been argued by Counsel and submitted to, and taken under advisement by the Court at a former term of this Court, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Kelley, Chief Justice Smith and Associate Justice Loughlin concurring, reversing the judgment of the Court below and remanding the cause for a new trial with directions to re-instate the defendant's records plea for reasons set forth in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the judgment of the District Court in and for the County of Grant in this cause came into this Court, &c, and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court with directions to grant a new trial thereof, and re-instate the defendants records plea. It is further considered and adjudged by the Court that said Plaintiff in error do have and recover of said defendant in error its costs in this behalf expended, to be taxed, &c, that it have execution therefor

564 The Loyalton-Sierra National Bank, Plff. in Error
vs.
E. M. Folsom, Deft. in Error
Error to Bernalillo County

The Court being now fully advised upon the motion of said defendant in error to grant him a rehearing of this cause, grants said motion. It is therefore ordered by the Court that said motion be, and the same hereby is granted, and that said defendant in error be, and he hereby is granted a rehearing of this cause.

637 In the matter of the information concerning
Thomas B. Catron and Charles A. Spiess

And now at this day the Court having considered the matter of the information presented by Jacob H. Bowman, as District Attorney, concerning Thomas B. Catron and Charles A. Spiess Esquires members of the bar of this Court, It is ordered that the same be referred to John P. Victory Esq. as Solicitor General of the Territory, N. B. Laughlin, E. A. Fiske, A. A. Jones and Amon B. Newcomb Esquires, members of the bar of this Court with directions to them to prepare and present to this Court such written charges and specifications in relation to the matters contained in the said information, as they or a majority of them may deem proper in the premises, and file the same in the Clerks office of this Court within ten days from this

date, and that they serve or cause to be served upon the said Patron and Opies a copy of the same within ten days from this day. And it is further ordered that the said Patron and Opies file their written answer, jointly or severally, to such charges within ten days thereafter. And it is further ordered that the issues raised by the said charges and answer be docked for trial and heard by this Court on the first Monday of October in the year 1895 at ten o'clock in the forenoon, at which time the said Victory, Childers, Fike, Jones and Newcomb present such witnesses or other testimony as they may deem proper and expedient whose testimony may be material and competent in relation to the issues arising upon such charges and answer, and that the said Patron and Opies present such witnesses or other testimony as they may deem proper and expedient whose testimony may be competent and material in relation to such issues, and thereupon abide the judgment of this Court in the premises. And it is further ordered that the Clerk of this Court issue subpoenas for such witnesses on the application of either party, and that a copy of this order be served forthwith upon the said Patron and Opies.

Alexandro Gallegos, et al, Appellants
vs.
Frank Fleming et al, Appellees

Appeal from Bernalillo County

The cause coming on to be heard upon the record and the agreement made since the appeal was taken between the said complainants by their attorneys; and Frank Fleming, the defendant, that such cause may be docketed in this Court on the district Court as the complainants may desire, except that the costs in said cause shall be paid by the complainants. Now, therefore, the Court being fully advised in the premises, It is ordered, adjudged and decreed that so much of the decree of the district Court, heretofore rendered, as fails to declare the deed of conveyance to H. K. W. Henry, and the mortgage to said Fleming void as against the title of the complainant in and to the said tract of land, known as the Ohkli Grant &c. and the same is hereby reversed, and said cause is remanded to the district Court with instructions to take account in accordance with said agreement, and ascertain the matter—said Fleming now paid Henry have for the mortgage over and above the said Ohkli grant now the timber thereon. And fully establishing complainants' rights thereto, and establishing and quieting their title thereto, and that the said district Court do further direct to take such further action as to make such other order as the said cause may require, for the purpose of carrying into effect said decree and finally disposing of said cause.

Thomas Smith Chief Justice.

Concurring.

S. B. Axtell, A. J. — L. B. Hamilton, A. J.
W. B. Laughlin A. J. — Seldom D. Bantz, A. J.

Anno Quinto Day, [illegible] A. D. 1859

Twenty-Fifth Day, Monday, August 26th 1895

Court met pursuant to adjournment

Present as upon Saturday last, Hon. Thomas Smith, Chief Justice.

The minutes of Saturday proceedings is read and approved.

On motion of A.A. Freeman Esq. it is ordered by the Court that Chas. F. Mills Esq. a member of the Bar of the Fifth Judicial District Court, be and he is hereby admitted to practice as an attorney, solicitor and counselor of this Court, and the Chairman appears an oath and signs the roll, and takes the oath prescribed by law in open Court

It is ordered by the Court that the appointment of A.J. Hatch as Notary Public Commissioner for the City of Dillon as shown by the records, which is accordingly done in words and figures following, to wit:

[illegible] Dillon in the County of Dalton, Territory of [illegible]

To the Hon. Thomas Smith, Chief Justice of the Supreme Court of the Territory of [illegible]

Your petitioner [illegible] a citizen of the United States and a resident of the City of Dillon in the County of Dalton, Territory of [illegible] respectfully represents that he is desirous of being appointed a Notary Public Commissioner for the City of Dillon in the County of Dalton, Territory of [illegible] for the purpose of taking the acknowledgments of deeds and other instruments in writing, and of administering oaths and affirmations in all matters incident to the duties of such office, and of performing all other acts which may be performed by Notaries Public by the laws of the Territory of [illegible] and that your petitioner is well acquainted with the duties of said office, and is a fit and proper person to be appointed to said office.

Your petitioner therefore prays that he may be appointed a Notary Public Commissioner for the City of Dillon in the County of Dalton, Territory of [illegible] for the term of two years from the date of his appointment.

Dated at Dillon this twenty first day of August A.D. 1895

Thomas Smith, Chief Justice

In the matter of the information concerning
Homer D. Edson and Charles A. Ogden

It is ordered by the court that the clerk, for the present, is substituted in the case and place of the Commissioner heretofore appointed herein to receive verdict and disapprove.

Edna Sosa, Plaintiff,

vs

George H. Hanson, Defendant.

The cause having been heretofore regularly set for hearing on the petition and taken under advisement by the court, and being now fully advised of and concerning the same, it is by the court found that the deed of the plaintiff dated the 1st day of March 1919, in the petition herein mentioned and described as the deed under which the plaintiff claims the land described in the petition herein, and in the complaint herein mentioned, was executed by the plaintiff, Edna Sosa, and delivered to the defendant, George H. Hanson, and placed of record in the office of the County Clerk of Hidalgo County, Texas, on the 1st day of March 1919, and that the defendant, George H. Hanson, has ever since said date been in the actual possession of the land described in the petition herein, and has claimed the same adversely to the plaintiff, Edna Sosa, and has paid all taxes assessed against said land during said time, and has made valuable improvements thereon, and that the plaintiff, Edna Sosa, has not been in the actual possession of said land, or any part thereof, since the execution of said deed, and that the defendant, George H. Hanson, is entitled to have the title to said land quieted against the plaintiff, Edna Sosa, and against all persons claiming by, through or under her, and that the plaintiff, Edna Sosa, is not entitled to have the title to said land quieted against the defendant, George H. Hanson

Commission upon the sum of thirty five thousand eight hundred and sixty nine dollars and seventy seven cents, which amounts to the sum of nineteen hundred and forty three dollars and forty-eight cents, and it is further found that the compensation of the Special master therein be allowed to the sum of five hundred dollars. The court further finds that the said solicitor's fee, the said commission for said administrator, the said special masters fee and all the costs of this cause, in this court, and in the recent future, should be paid out of said funds and that of the remainder the said defendant George W. Harrison may retain in his possession seventeen-twenty sixth parts thereof, and that he shall pay over to said Pedro Pena as administrator of Jose Leandro Pena, deceased, the remaining nine twenty sixths to be distributed to the heirs at law of the said Jose Leandro Pena deceased, as follows:-

To Jose L. Pena, one-ninth thereof,
To Heriberto F. Pena one-ninth thereof,
To Mariano Pena, one-ninth thereof,
To Pacefico Pena, one-ninth thereof,
To Pedro Pena in his own right, one-ninth thereof,
To Eulalia Pena de Arroyo, one-ninth thereof,
To Andres Pena de Castillo, one-ninth thereof,
To Pedro Pena de Cadena, one-ninth thereof, and
To Pedro Pena, one-ninth thereof;

[illegible] it is further ordered and decreed by the Court that the [illegible] W. Harrison, pay into the office of the Clerk of the Court, within [illegible] days from this date, a sum sufficient to pay unto the said [illegible] the costs both in this Court and in the recent [illegible], and the fortieth taxed by the Clerk of this Court [illegible] six dollars and ninety seven cents, and a special masters fee of five hundred dollars, that he said George W. Harrison likewise pay to the said Pedro Pena, the retained by him as commission for his services as administrator the sum of nineteen hundred and forty three dollars and seventy eight cents, deducting the said payments on the said sum of five thousand eight hundred and sixty nine dollars and seventy seven cents, to pay over to said Pedro Pena as such administrator within the period of thirty days from this date, and that on default of such payment by said George W. Harrison, execution do issue out of this Court, against the said George W. Harrison and the said, Rafaela D. Stricklen and Mariano [illegible] and upon the returns upon the [illegible] issued in this cause, directed to the Sheriff of any County in the Territory of New Mexico, which may be [illegible] by the solicitor for the complainant therein, upon the amount so decreed to be paid, as hereinbefore set out; and in default such writ be had to such execution of fieri facias to enforce the said decree which is hereby ordered of record, as costs and interest

accruing thereon shall be paid by said George H. Harrison, Millard D. Hackler and Mariano D. Otero, and no part thereof shall be chargable against the said funds. It is further ordered, adjudged and decreed by the Court that upon the payment to the Clerk of the Court of the sum of money hereinbefore decreed to be paid to him, the said Clerk forthwith distribute the same to the parties entitled thereto and take their respective receipts therefor, interest to run on all sums hereinbefore provided for from the date until paid at 6% per annum.

W. B. Franklin, Associate Justice, sitting in the absence of the Chief Justice.

5749 Charles Bent, Etal. Appellants
v.
Guadalupe Miranda Etal, Appellees
Appeal from Bexar County.

The cause coming on for hearing upon the transcript of record, assignment of error and briefs of counsel on file, is argued by Hon. Yeaman and Hon McNeal for said appellants and Hon. Brown for said appellees, and submitted to the Court. and the Court not being sufficiently advised in the premises, takes the same under advisement

5781 The Kansas Lands Grant and Railway Company, Etal, Appellants
v.
Guadalupe Thompson, Etal, Appellants
Appeal from Bexar County.

The cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by Hon. Yeaman and Hon. McNeal for appellants and by Hon. Brown for said appellees, and submitted to the Court, and the Court not being sufficiently advised in the premises takes the same under advisement

It is ordered that Court do now adjourn until tomorrow morning at the hour nine o'clock.

Thomas Smith

Twenty-Sixth Day, Tuesday, August 27th, 1895

Court meets pursuant to adjournment.

Present, as upon yesterday.

The records of yesterday's proceedings is read and approved.

1237 In the matter of the information concerning Thomas B. Catron and Charles A. Spiess.

Now come the said respondents in their own proper persons at-torneys and move the Court to modify the order heretofore made herein so as to require said Committee heretofore appointed, immediately to assemble at Santa Fe and proceed with its labors, and to make its report at the earliest possible moment; and also so as to enlarge the powers of said Committee and authorize it to make investigation into the merits of the complaint filed herein before preparing and filing any charges thereon, and to examine any records, persons and papers which may be submitted, and the Court being sufficiently advised in the premises, denies said motion: It is therefore ordered by the Court that said motion be and the same hereby is denied.

1231. United States of America, Appellee
vs.
Pedro Perea, et al, Appellants

Appeal from First Judicial District.

This cause coming on for hearing upon the transcript of record, assignments of error and briefs of counsel on file, is argued by E. L. Bartlett Esquire for said appellants and J. B. McHemingway Esquire, District Attorney for said appellee, and submitted to the Court, and the Court not being fully advised in the premises, takes the same under advisement.

1179 In the matter of
Juan Antonio Chavez

Appeal from Socorro County.

It is ordered by the Court that an attachment for the arrest of the said Juan Antonio Chavez issue to the Sheriff of the County of Socorro, and that said Sheriff be and he hereby is authorized to receipt a bond of the said Juan Antonio Chavez in the sum of two hundred and fifty dollars, conditioned for his appearance before this Court on October 9th, 1895.

Territory of New Mexico, Appellee
vs.
1237. Nicanicano Griego, Appellant

Appeal from Socorro County.

This cause coming on for hearing upon the transcript of

Record, assignment of error and brief of counsel on file, is argued by A.A. Freeman Esquire for said appellant, and J.D. Mowry Solicitor General and H.H. Dougherty Esquire, for said appellee and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith

Twenty-fourth Day, Wednesday, August 28th, 1895

Court meets pursuant to adjournment.

Present, as upon yesterday.

The records of yesterdays proceedings is read and approved.

6110 United States of America, Appellee
vs.
Pasqual Batinela

Appeal from Second Judicial District.

G. B. H. Hemingway, United States Attorney for the Territory of New Mexico having presented the transcript of the records in the above styled cause from the second judicial district and asked that the same be filed and that the judgment of the lower court be affirmed, and the court after due deliberation having found no error in the record of the court below, and it appearing that said Pasqual Batinela has failed to prosecute his appeal herein, it is therefore ordered and adjudged that the judgment of this court below be affirmed and that the warrant of commitment of this court issue, directing the Marshal of this Territory in execution of the judgment and sentence of said second judicial district court, to apprehend the said Pasqual Batinela and deliver him to the superintendent of the territorial Penitentiary of New Mexico, to be there kept according to the rules, regulations and discipline of said Penitentiary for the term of one year from the date of his incarceration.

Whereas, Pablo Lopez Clerk of the First Judicial District Court in the County of Rio Arriba has rendered to this Court an account for his official services from the 24rd day of July 1895 to the 25th day of August, 1895 with the items and vouchers thereof, in the presence of the District Attorney, and has by the oath, attached to the account, proved to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated; and whereas said charges appear to be just and according to law, it is hereby ordered that said account amounting to $11.50 be and the same is hereby approved

United States of America, Appellee
vs.
Daniel De Graca, Appellant

Appeal from Fifth Judicial District Court.

G. B. H. Hemingway, United States Attorney for the Territory of Newmexico having presented the transcript of the record in the above styled cause from the fifth judicial district and asked that the same be filed and that the judgment of the lower court be affirmed, and the court after due deliberation having found no error in the record of the court below, and it appearing that said Daniel De Graca has failed

Twenty-Seventh Day, Wednesday, August 28th A. D. 1895

to prosecute this appeal herein, it is therefore ordered and adjudged that the judgment of the Court below be affirmed and that the warrant of Commitment of the Court issue, directing the Marshal of this Territory in execution of the judgment and sentence of said Fourth Judicial District Court, to apprehend the said Daniel Ka Ohaoa and deliver him to the Superintendent of the Territorial Penitentiary of Ka Hawaii, to be there kept according to the rules regulations and discipline of said Penitentiary for the term of six months from the date of this incarceration.

Territory of Ka Hawaii, Appellee
vs.
Samuel Kaiaeau Nigit, Appellant

Appeal from Tax County

The cause coming on for hearing upon the transcript of record, assignment of errors and brief of counsel on file is argued by C. A. Ahuna Esq. for said appellant and W. H. Cole Esq. for said appellee and submitted to the Court, and the Court not being sufficiently advised in the premises takes the same under advisement.

I am canno Frederick F. Bennett an alien, and make application to be admitted to become a citizen of the United States: and it being made to appear to the satisfaction of the Court that more than two years since, the said Frederick F. Bennett declared on oath, before Thomas Boese, Clerk of the Superior Court of the City of New York, such Court being a court of record, having common law jurisdiction, a clerk and a seal, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to Victoria Queen of the United Kingdom of Great Britain and Ireland and it being further made to appear to the satisfaction of the Court, by the testimony under oath of C. A. Truman and S. Bradford, Jr. citizens of the United States, that the said Frederick F. Bennett has resided within the United States five years at least, and within the Territory of Ka Hawaii one year at least, and that during that time he has conducted as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same: and the said Frederick F. Bennett declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, and particularly to Victoria, Queen of the United Kingdom of Great Britain and Ireland. It is ordered by the Court that the said Frederick F. Bennett be, and he hereby is admitted to become a citizen of the United States.

Henry Poe. Jr. Wright, Clerk of the Supreme Court of the Territory of Ka Hawaii has rendered to this Court an account for his official services from the 29th day of July 1895 to the 28th day of August, 1895, with

the items and vouchers thereof, in the business of the district attorney, and has duly the oath, attached to the account, proved to the satisfaction of the court that the services therein charged have been actually and necessarily performed as therein stated; and whereas said charges appear to be just and according to law, it is hereby ordered that said account amounting to $386.50 be, and the same is hereby, approved. And it is hereby certified that upon each of the days for which a per diem is charged the court was opened for business and business was actually transacted in court or the clerk attended as provided by Sections 583, 584, 671, or 672, Revised Statutes, United States.

Union Trust Company of New York, Appellant,
vs.
Atchison, Topeka and Santa Fe Railroad Company, James H. Hoadley, Intervenor, Appellee

Appeal from Santa Fe County.

It is hereby considered, adjudged and decreed that the order and decree of the District Court of Santa Fe County be and the same is in said cause affirmed, and that the Receivers of defendant Company the said Atchison, Topeka and Santa Fe Railroad Company be and are hereby ordered and directed to pay into the hands of the Clerk of this court within thirty days after the date of this order and decree the judgment obtained by James H. Hoadley, intervenor and appellee against said Company which with principal and interest amounts to the date to the sum of three thousand six hundred and sixty dollars together with the costs of obtaining said judgment and all costs of this appeal, and that in default of such payment, the said Clerk report the matter to this Court at its meeting on October 7th, 1895, or such further proceedings as to this court may seem meet. And it is further ordered that the clerk of this court shall forthwith serve upon each of said Receivers and their attorney in New Mexico, by registered letter to their respective addresses, a certified copy of this order together with statement of costs to be paid therein.

Pedro Perea, Administrator, Appellee
vs.
Joseph H. Harrison, Administrator, Etal, Appellants

Appeal from Bernalillo County.

On motion of said appellant George H. Harrison by his Solicitor H. B. Wilders Esq. It is ordered by the Court that the time within which said appellant was directed to pay over certain moneys remaining in his hands as administrator by decree of this court made and entered of record upon a former day of the present term, be and the same hereby is extended until the tenth day of October, 1895.

Daniel B. Ford, Appellee
vs.
Springer Loands Association, Etal, Appellants

Appeal from Colfax County.

The cause having been argued by counsel, and submitted

to and taken under advisement by the court at a former term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Coughlin, Chief Justice Smith and Associate Justice Collier concurring, affirming the decree of the court below and remanding this cause to the court below, with directions to make such order as will carry the same into effect: It is therefore ordered, adjudged and decreed by the court that the decree herein of the District Court in and for the County of Colfax be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said District Court with directions to make such order as will carry the same into effect: and It is further considered and adjudged by the court that the said appellee do have and recover of the said appellants his costs in this behalf expended, as well in the court below as in this court to be taxed, and that he have execution therefor

616 Henry Lockhart, Plaintiff in Error
vs.
H. F. Heathcott, Defendant in Error
Error to Kimball County

This cause having been argued by counsel, and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Coughlin, Chief Justice Smith and Associate Justice Harrison concurring affirming the judgment of the court below, for the reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment herein of the District Court of the County of Kimball whence the cause came into this court be and the same hereby is affirmed, and that in accordance therewith the said H. F. Heathcott do have and recover from the said Henry Lockhart the sum of thirty dollars with interest thereon at the rate of six per cent per annum from October 1st 1891 together with the costs herein, as well in the court below as in this court, for which let, and that execution issue therefor.

615 German-American Insurance Company, Plaintiff in Error
vs.
Charles Ethridge, William B. Childers and [illegible], Defendants in Error
Error to Bernalillo County.

This cause having been argued by counsel, and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Coughlin, Associate Justice Harrison and Justice Collier concurring, affirming the judgment of the court below, for the reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Bernalillo whence this cause came into this Court, be and the same hereby is affirmed, and that in accordance therewith the said Charles Ethridge, William B. Childers and [illegible] go hence without day, and recover of the said German-American Insurance Company their costs in this behalf

expended, as was in the Court below as in this Court, to be taxed, and that execution issue therefor.

540

Pacific Gold Company, Plaintiff in Error

vs.

William O'Williams, Etal, Defendants in Error

Error to Eddy County.

This cause having been argued by counsel, and submitted to, and taken under advisement by this Court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Hamilton, Associate Justice Vaughn and Baily concurring, reversing the judgment of the Court below and remanding this cause for such further proceedings as may be proper: It is therefore considered and adjudged by the Court that the judgment herein of the District Court in and for the County of Eddy whence the cause came into this Court, be, and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court for such further proceedings as may be proper: and It is further considered by the Court that said Plaintiff in error recover of said defendants in error, its costs herein expended, to be taxed and that it have execution therefor.

In the matter of the account of the Superintendent of the New Mexico Penitentiary for guarding, feeding &c. of H. D. Clancy, A. J. Kendall, E. W. Osborn, and O. A. Weiss, committed to said Penitentiary by this Court, for contempt, in September, 1894

Now comes the Territory of New Mexico by its Solicitor General, and asks that the account of the Territory for the guarding, feeding, &c. of H. D. Clancy, A. J. Kendall, E. W. Osborn and O. A. Weiss, heretofore committed to the New Mexico Penitentiary for contempt, by this court, be approved and ordered paid, and after hearing said Solicitor General on said motion, and the Court being sufficiently advised in the premises, It is ordered that the said account be and the same is hereby approved, and that the same be paid out of any funds of the Territory available for that purpose.

In Re the application of the Santa Fe Gravity Mining Company for a writ of prohibition against the First Judicial District Court and the Judge thereof

561

On motion of the respondent in the above entitled cause, it is ordered that an appeal to the Supreme Court of the United States in said cause be and the same is hereby granted, and that the said respondent give a good and sufficient bond, executed by two responsible sureties, to be approved by the Clerk of this court, in accordance with law, as the security for the costs in said cause, in the sum of One

Twenty fourth Day, Wednesday, August 28th A. D. 1895

Pawhuska, Okla.

Be it remembered that upon the above date and hour Thomas Leahy

Thomas Leahy
½
Grace Entries.

Twenty-Eighth Day, Monday, October 9th, 1895

Court meets pursuant to adjournment.

Present:-

Honorable Thomas Smith, Chief Justice,
Honorable N. B. Laughlin, Associate Justice
Honorable W. W. Mantz, Associate Justice,
George P. Money, Assistant United States Attorney,
[illegible], United States Marshal,
Wm. L. Hyllyp, Clerk.

564 The Lyndeborough National Bank, Deft. in Error
vs
William H. Gibson, Deft. in Error

Error to Bernalillo County.

It is ordered by the court that this cause be, and the same hereby is set for hearing upon the incoming of court upon tomorrow morning.

First National Bank of Albuquerque, et al, Appellees.
vs
[illegible] Bowden et al, Defendants

Appeal from Bernalillo County.

It is ordered by the Court that the cause be, and the same hereby is set for hearing upon the incoming of court on next Wednesday morning.

In the matter of Juan Antonio Chavez.

Contempt.

Now comes the Sheriff of the County of Valencia to the within and hereto the writ of attachment herein, and presents to the court then the body of the said Juan Antonio Chavez, and the court thereupon hears evidence, and not being fully advised in the premises, takes this proceeding under advisement.

In the matter of the account of the Superintendent of the New Mexico Penitentiary, for guarding, feeding, &c., of H. A. Clancy, W. H. Bridwell, A. P. Hamdall and Charles A. Bliss, committed to said Penitentiary by said court for contempt, in September, 1894.

It is ordered by the court, that in the order made and entered of record herein on August 28, 1895, approving the account of the Superintendent of said Penitentiary, wherever the words "Penitentiary" or "New Mexico Penitentiary" occur, that there be substituted in lieu thereof the words "United States jail".

Twenty Eighth Day, Monday, October 19th A. D. 1891

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Duncan Peck
Chief Justice

Twenty-Ninth Day, Tuesday, October, 8th, 1895.

Court meets pursuant to adjournment

Present, as upon yesterday, and also the Honorable H.B. Hamilton, Associate Justice

The records of yesterdays proceedings is read and approved.

5th In the matter of } Contempt.
Juan Antonio Chaves.

This proceeding having been heretofore heard and taken under advisement by the court, the court being now sufficiently advised in the premise, announces its decision by Chief Justice Smith, to the effect that the defendant has failed to purge himself of contempt, and that he be required to pay the costs of this proceeding and to surrender to Adolfo Chaves the possession of the lands in dispute between them upon which he has entered in accordance to the order of this court; It is therefore considered and adjudged that the said Juan Antonio Chaves be and he hereby is required to pay as costs of this proceeding taxed at Twenty two and thirty one one hundredths dollars, and that execution issue therefor; that he surrender to the said Adolfo Chaves the possession of the said lands in dispute between them and that he stands committed to the custody of the Sheriff of Valencia County, until said lands be had and until such possession be surrendered, and that a Commitment issue accordingly, and It is further ordered that the costs of this proceeding to said day the Treasurer of Valencia County ram the Court funds of said County, to the persons entitled thereto, and, when collected back from defendant, that the money shall be paid over to said Treasurer to be reloaded in said court funds.

The Commonwealth Investment Co., a corporation, } Error to 1st District Court Bernalillo County
vs.
E. H. Iverson, Sheriff, et al. }

This cause coming on for hearing, upon the transcript of record, argument of counsel, and briefs of counsel on file, is partially argued by A.B. McMillan Esq, for said Plaintiff in error.

It is ordered that court do now adjourn until tomorrow morning at nine o'clock.

Thomas Smith
Chief Justice.

Thirtieth Day. Wednesday. October 9th. 1895

Court met pursuant to adjournment.

Present, as upon yesterday, and also Honorable W. G. Collier, Associate Justice

The records of yesterdays proceedings as read and approved.

No. 834. The Lyndonville National Bank, Plff in Error
vs.
L. M. Folsom, Defdt. in Error
Error to Lincoln County

The cause coming on for further hearing, is argued by A. H. McNillan Esq. for plaintiff in error and F. H. Mabry, Esq. for defendant in error and submitted to the Court and the Court not being fully advised in the premises takes the same under advisement.

No. 835. In the matter of the application of
James Addison Peraltanuus
Habeas Corpus

Now comes the said James Addison Peraltanuus by his Attorney Charles A. Spiess Esq. and moves the Court to grant them an appeal from the judgment and decision of this Court to the Supreme Court of the United States, and the Court being fully advised in the premises, Grants said motion: It is therefore considered and adjudged by the Court that said motion be and the same hereby is granted and that the said James Addison Peraltanuus be and he hereby is granted an appeal from the judgment and decision of this Court in this cause to the Supreme Court of the United States.

No. 836. In Re Information against
Thomas B. Catron and Xavier L. Perea
[illegible]

It is ordered by the Court that the motion to [illegible] the same hereby is set for hearing when the incoming Court on such Monday morning.

No. [illegible]. [illegible]
vs.
[illegible]

This cause coming on to be heard on the motion submitted in this cause taken under advisement by the Court upon a former day of the present term, the Court being now fully advised in the premises, overrules the motion of Catron, Catron & Clancy affirming the decree in the court below, Reserate Justices Baughlin, Hamilton and Seeds concurring: It is therefore ordered, adjudged and decreed by the Court that the decree of the District Court in and for said County, at Chaves County, in this cause be and the same hereby is affirmed, and that this cause be and the same hereby is remanded to

said District Court with directions to carry into effect said decree dismissing said bill of complaint; and it is further ordered adjudged and decreed by the Court that said appellants pay all costs in this behalf expended to be taxed, and that execution issue therefor.

581 The Kansas Lands Grant and Railway Company Et al. Appellees
vs.
Guadalupe Thompson, Et al. Appellants
Appeal from Colfax County.

The cause having been argued by counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now fully advised in the premises, announces its decision by Associate Justice Collier affirming the decree of the court below, Associate Justices Laughlin, Freedman and Bantz concurring for reasons stated in the opinion of the court on file. It is therefore ordered adjudged and decreed by the Court that the decree in this cause of the District Court in and for the County of Colfax wherein this cause came into this court, be and the same hereby is affirmed; and that this cause be and the same hereby remanded to said District Court with directions to carry said decree into effect; and it is further ordered adjudged and decreed by the Court that said appellants pay all costs in this behalf expended to be taxed, and that execution issue therefor.

582 First National Bank of Albuquerque, Et al. Appellees
vs.
John A. Lee, Executor, Et al, Appellants
Appeal from Bernalillo County.

~~The agreement of said parties by their solicitors~~, It is ordered by this Court that the cause be and the same hereby is continued until the next term of this Court, with leave to said parties to case the same up for hearing at any time before the final adjournment of this court at the present term.

In the matter of
Louis Gonzales.
Habeas Corpus.

It appearing to the Court that Louis Gonzales was duly served with process of subpoena commanding him to be and appear before this Court on October 9th, 1895, then and there to testify in a proceeding therein pending In the matter of the Information against James L. Watson and Louis H. Weiss, and that said Louis Gonzales has failed to appear in obedience to the command of said subpoena, upon motion of T. J. Dickory Esq. Solicitor General of the Territory of New Mexico, It is ordered that attachment returnable forthwith issue for the arrest of said Louis Gonzales.

624 A. M. Gentile, Appellee
vs.
Charles H. Kennedy, Et al, Appellants
Appeal from Bernalillo County.

The cause coming on for hearing upon the transcript of record

arrangement of which are entitled to counsel on file, in support of which H. B. Childers made D. L. Reedy Esquire for said appellants and J. B. Wilson Esq. for said appellee and submitted to the court and the court not being fully advised in the premises takes the same under advisement

bag

Benjamin Cochran, Sheriff &c of Socorro County, Appellee

vs

John H. Schofield, Receiver of the Albuquerque National Bank, Appellant

Appeal from Socorro County

Now comes the said appellee by his attorney H. B. Childers Esq. and moves the court for reasons stated in his motion on file to dismiss the appeal herein and affirm the judgment of the court below, and the court being fully advised in the premises denies said motion. It is therefore ordered by the court that said motion be and the same hereby is denied; whereupon said appellant by his attorney by H. B. Childers Esq. moves the court to strike this cause from the docket and it appearing to the court that no appeal has ever been taken from the judgment of the court below in this cause, the court grants said motion. It is therefore ordered by the court that said motion be and the same hereby is granted and that this cause be and the same hereby is stricken from the docket of the court and that said appellee pay all costs in this behalf expended as well in the court below as in this court to be taxed and that execution issue therefor

520

The Socorro Land Grant Company, Plff. in Error

vs

Error to San Miguel County

John B. Dawson, Defdt. in Error

Now comes the said plaintiff in error and presents to the court here the mandate in this cause of the Supreme Court of the United States, & moves the court to enter an order in accordance therewith, and the court being fully advised in the premises grants said motion. It is therefore ordered by the court that in accordance with the mandate of the Supreme Court of the United States, this cause be remanded to the District Court in and for the County of San Miguel with direction to said court to set aside the verdict of the jury herein and grant a new trial of this cause. that said plaintiff in error do have and recover of said defendant in error all costs in this behalf expended, as well in the court below as in the Supreme Court of the United States and this court, to be taxed, and that it have execution therefor.

It is ordered that court do now adjourn until tomorrow morning at half past nine o'clock.

Thomas Smith

Thirty-First Day, Thursday, October 10th, 1895

Court meets pursuant to adjournment

Present, as upon yesterday

The records of yesterdays proceedings is amended and approved.

630

Territory of New Mexico, Appellee
vs.
Manuel Gregorio Vigil, Appellant
Appeal from Taos County.

The cause having been heretofore argued and submitted to the court on the briefs filed by the appellant and appellee herein, and it appearing from the records and briefs filed by appellant, that Charles A. Spiess was the acting District Attorney for the County of Taos, as such attorney drew, signed and had presented and filed the indictment in said cause. And it also appearing from the records that Charles A. Spiess, after the presentation of said indictment, and the trial and conviction of the defendant thereunder, was retained by and has appeared for the defendant as his attorney in this court in said cause, and as such attorney acting for and on behalf of said defendant was subsequently by this court permitted to appear, after having prepared and filed a brief for and on behalf of the defendant and appellant herein, in which said brief so filed by said Spiess, among other grounds for reversal attacks the indictment, as prepared signed and filed by him while acting as such special District Attorney in said cause; and the court being fully advised therein, doth adjudge the conduct of said Spiess, as highly reprehensible and undermining the institutions as an attorney and officer of this court; It is thereupon ordered by the court that the brief so filed by the said Charles A. Spiess as Attorney for defendant and appellant herein, be stricken from the files; and that the name of Charles A. Spiess be stricken from the docket as attorney for the defendant and appellant herein. It is further ordered that the submission of said cause as heretofore made, be set aside, and that the appellant be given six days from this date in which to retain counsel, and prepare and file brief in this behalf in said cause.

Lindsay A. Jones, Etal, Appellees

vs.

Lucas Armijo, Etal, Appellants

Appeal from Lincoln County.

The cause having been argued by counsel and submitted to the court under advisement by the court when a former day of the present term, the court being now fully advised in the premises, announces its decision by Associate Justice Laughlin, all other members of the court concurring, affirming the decree of the court below with modifications: It is therefore ordered, adjudged, and decreed by the court that the decree of the District Court in and for the County of Lincoln wherein this cause came into this court be and

384 Territory of New Mexico, Appellee
vs.
Patrick Carmody, Appellant
Appeal from Socorro County

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by H. B. Warren Esquire for said appellant and John D. Victory Esquire Solicitor-General, for appellee and submitted to the court, and the court now being sufficiently advised in the premises, takes the same under advisement

634. In the matter of the Information against
Thomas B. Catron and Charles A. Spiess

Now comes John D. Victory Solicitor General of the Territory of New Mexico and shows to the court here that Louis Gonzales, a witness on this proceeding is now in the custody of the Sheriff of the county of Bernalillo, and detained on his fee of said county, and the court being sufficiently advised in the premises It is now ordered that the Sheriff of the County of Bernalillo produce the body of the said Louis Gonzales before this court on Monday, October 14. 1895 for the purpose of having the benefit of his testimony in this proceeding, and a certified copy of this order shall be the warrant of said Sheriff for so doing

Thirty second Day, Friday, October 11th 1895.

It being regular hereof to adjourn

It was so ordered by

the records of yesterday were read

Thereupon the following proceedings were had

Thomas Fowler, Etc. Plaintiff

vs

Alfred Fowler, Etc. Defendant.

This cause coming on for hearing upon the transcript of records, assignment of errors and briefs of counsel on file, as argued by W. H. Phillips, Esq. for plaintiff in error and E. B. Graham, Esq. for defendant in error and submitted to the court and the court not being fully advised in the premises takes the same under advisement.

Thomas J. Fowler, Etc. Plaintiff

vs

Alfred Fowler, Etc. Defendant.

This cause coming on for hearing upon the transcript of records, assignment of errors and briefs of counsel on file, as argued by W. H. Phillips, Esq. for plaintiff in error and E. B. Graham, Esq. for defendant in error and submitted to the court and the court not being fully advised in the premises takes the same under advisement.

The Union Trust Company of New York, Plaintiff

vs

A. T. & S. F. R. R. Co. — Postal Telegraph Cable Company; Southwestern, Defendant.

This cause coming on for hearing upon the transcript of records, assignment of errors and briefs of counsel on file, as argued by W. H. Phillips, Esq. for plaintiff in error and E. B. Graham, Esq. for defendant in error and submitted to the court and the court not being fully advised in the premises takes the same under advisement.

The Union Trust Company of New York, Plaintiff

vs

A. T. & S. F. R. R. Co. — Postal Telegraph Cable Company; Southwestern, Defendant.

This cause coming on for hearing upon the transcript of records, assignment of errors and briefs of counsel on file, as argued by W. H. Phillips, Esq. for plaintiff in error and E. B. Graham, Esq. for defendant in error and submitted to the court and the court not being fully advised in the premises takes the same under advisement.

Thereupon Hon. Frank Dale, Associate Justice of the Supreme Court of the Territory of Oklahoma, presented to the court his commission as such Associate Justice, which was read and ordered filed.

for services rendered by him, July 1st, 1895 to September 30, 1895, and supplemental account for quarter ending June 30, 1895, and in the presence of the assistant United States Attorney for said district has been sath to the satisfaction of the court that the services therein charged for were actually and necessarily performed as stated in said account; and whereas said charges appear to be just and according to law; and it is certified that on each of the days for which a per-diem is charged for attendance on court the court was opened by the judge for business, and business was actually transacted in court; or that the attendance under sections 583, 584, 671, or 672, Revised Statutes of United States, and that in the ____ cases which counsel fees are charged the prosecutions were by indictment, and such counsel fees were allowed by the court: It is therefore ordered by the court that said account, amounting to the sum of fifteen hundred & seventy four 1/100 dollars &c, and the same is hereby approved.

It is ordered that court do now adjourn until tomorrow morning at half past nine o'clock

Thomas Fuller

thereon, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Associate Justice Hamilton concurring and Associate Justice Laughlin dissenting, affirming the decree of the Court below, and remanding the cause with directions to carry the same into effect. It is therefore ordered, adjudged and decreed by the Court that the decree of the District Court in and for the County of Bernalillo, wherein this cause came into this Court be, and the same hereby is affirmed, and that this cause be and the same hereby is remanded to said District Court with directions to carry said decree into effect: It is further ordered, adjudged and decreed by the Court that said appellants pay all costs herein expended to be taxed, and that execution issue therefor.

6417. H. H. Clanton, Appellant
vs.
E. B. Eaton, Appellee

Appeal from Bernalillo County.

This cause coming on for hearing upon the transcript of record, assignment of errors and brief of counsel on file, is argued by M. B. Field, Esquire for said appellant, no one appearing for said appellee, and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement

In the matter of
John P. Victory

Petition for Contempt

Upon reading the petition and request of John P. Victory, Trustee, &c., that the Attorney General of the Committee therein mentioned, in this Court, be directed certain Orders instituted in this Court against Thomas A. Eaton and Charles A. Hines, and also the affidavits of Hon. Thomas and Willis Rhodes &c. as ordered by the Court that attachment subpoena issue from the Court as said Page B. Eaton.

635 Manuel B. Otero, Plaintiff
vs.
Juan D. Romero and Jesus Otero, Defendants

Appeal from Mora County.

This cause coming on for hearing upon the transcript of record, assignment of errors and brief of Counsel on file, is argued by W. B. Childers and F. H. Allen Esquires for appellants and E. B. Eaton and W. H. Pope Esquires for said appellee and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

Whereas Manuel B. de Baca, United States Commissioner for the Fourth District of New Mexico, has heretofore an account for his official services for the quarter ending September 30th, 1895, duly certified by oath, attached to the account, and the District Attorney has submitted said account for approval in open Court, and the appearing to the satisfaction of the Court that the services therein charged have been actually and necessarily performed, as therein stated, and whereas the said charges appear to be just and accord-

ing to law. It is ordered that said account amounting $31.40 be and the same is hereby Approved this 12th day of Oct. A.D. 1895.

It is ordered that court do now adjourn until next Monday morning at half past nine o'clock.

Thomas Smith
Chief Justice.

Thirty Fourth Day. Monday, October 14th. 1895.

Court meets pursuant to adjournment

Present, as upon Saturday.

The records of Saturday's proceedings is read and approved.

It is ordered by the Court that A.B. Renehan be and the hereby is appointed Stenographer to the Court and the transcription thereof in open court and is duly sworn as such.

637. In the matter of Thomas B Catron et. al. Contempt.
and Charles A. Spiess.

On motion of H.B Childers Esq, a member of the committee heretofore appointed by the court herein, It is ordered by the court that the hearing of this proceeding be, and the same hereby is, continued until tomorrow morning, on account of the absence of material witnesses.

610. Charles A. Robinson Plff. in Error
vs.
Territory of New Mexico, Deft. in Error } Error to Socorro County

Now comes H. B. Childers Esq., and enters his special appearance herein for the Board of County Commissioners of the County of Socorro

for the purpose of moving the dismissal of the writ of error heretofore issued in this cause, and thereupon, It is ordered by the Court that the cause be and the same hereby is continued until the next term of this court.

It is ordered that court do now adjourn until tomorrow morning at half back nine o'clock.

Thomas Smith
Chief Justice

Thirty Fifth Day, Tuesday, October 15th 1895

Court meets pursuant to adjournment

Present, as upon yesterday.

The records of yesterday's proceedings is read and approved

In the matter of the proceedings against
Thomas O. Moon and Mark A. Weiss

Now come the said respondents by their attorneys, Messrs A.B. Fall, Mark A. Smith, Frank Springer and W.H. Haney, and move the court to quash the charges and information filed against them herein, and to dismiss the same for reasons set forth in their motion on file, and said motion having been heard and submitted to the Court, the Court, being sufficiently advised in the premises, denies said motion: It is therefore ordered by the Court that the said motion be and the same hereby is, denied.

5rtq

Charles Dent, et al, Appellants,
vs.
Edward L. Fort, Appellee

Appeal from Eighth Court of Colfax County.

Now come the said appellees by their solicitor Frank Springer Esq., and the said appellants come by their solicitor T.B. McNeal Esq., said appellants and pray an appeal from the judgment and decree of this court in this cause to the Supreme Court of the United States, and the Court having

sufficiently advised in the premises grants said motion; It is therefore considered and adjudged by the Court that the said applicants be and they hereby are allowed an appeal from the judgment and decree of this Court in this cause to the Supreme Court of the United States; and it is further ordered by the Court that said applicants enter into a good and sufficient bond to appear in the sum of five hundred dollars with sureties to be approved by the Clerk of this Court, conditioned for the payment of all costs in connection with this appeal, and thereupon the Court makes and certifies a statement of the facts herein for the purpose of such appeal, and orders that the same be made a part of the records in this cause.

781 The Kansas Lands Grant and Railway Company, Etal, Appellees
vs.
Guadalupe Thompson, Et-al, Appellants

Appeal from District Court of Colfax County

Now come the said appellees by their Solicitor Frank Springer, Esq., and the said applicants come by their solicitor R. F. McNeal Esq.; said applicants and, pray an appeal from the judgment and decree of this court to the Supreme Court of the United States, and the Court being sufficiently advised in the premises, grants said prayer; It is therefore considered and adjudged by the Court that the said applicants be and they hereby are allowed an appeal from the judgment and decree of this court in this cause, to the Supreme Court of the United States; and It is further ordered by the Court that said applicants enter into a good and sufficient bond to appellees in the sum of five hundred dollars with sureties to be approved by the Clerk of this court, conditioned for the payment of all costs in connection with this appeal; and thereupon the court makes and certifies a statement of the facts herein for the purpose of such appeal and orders that the same be made a part of the records in this cause.

630. Territory of New Mexico, Appellee
vs.
Manuel Eugenio Vigil, Appellant

Appeal from Taos County

Now comes A. A. Hannson Esq. and enters his appearance herein as attorney for said applicant Manuel Eugenio Vigil.

645 In the matter of Thomas Hughes and W. F. McKnight.

Contempt.

This matter coming on for hearing upon the interrogatories propounded to the said Thomas Hughes and W. F. McKnight, and their answers thereto, Messrs John P. Victory, W. B. Childers and A. A. Jones members of the committee presenting the information herein, appearing, and E. A. Bartlett and T. A. Finical Esquires appearing for said respondents, who also appear in their own behalf, the Court, after hearing said interrogatories and the answers thereto read, adjudges the said Thomas Hughes and W. F. McKnight guilty of a contempt of this Court, and condemns the said W. F. McKnight to pay a fine of twenty-five dollars, and the costs against him in this proceeding expended to be taxed; It is there-

fore considered and adjudged by the court that the said H. T. McKnight do make unto the Territory of New Mexico the sum of twenty-five dollars the amount of his fine assessed as aforesaid together with the costs against him as taxed, and that execution issue therefor; that the said H. T. McKnight stands committed to the custody of the United States Marshal of the Territory of New Mexico until paid fine and costs are fully paid and satisfied, and that warrant of commitment issue against him.

It is ordered that court do now adjourn until tomorrow morning at half past nine o'clock

Thomas Smith

Thirty-Sixth Day. Wednesday, October 16. 1895.

Court met pursuant to adjournment.

Present, the Hon Smith.

The records of yesterday's proceedings is read and approved.

Thomas X. Ferris, Plaintiff in Error
vs.
William Carmichael et al, Defendant in Error } Error to District Court of Socorro County.

The cause having been argued by counsel and submitted to, and taken under advisement by the court upon a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Chief Justice Smith concurring, Associate Justice Laughlin dissenting, reversing the judgment of the court below for reasons stated in the opinion of the court on file; It is therefore considered and adjudged by the court that the judgment in this cause of the District Court in and for the County of Socorro whence this cause came into this court, be and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court with directions to grant a new trial thereof: It is further considered and adjudged by the Court that the said plaintiff in error do have and recover of said defendants in error his costs in his behalf expended, as well in the court below as in this court expended, to be taxed, and that execution issue therefor.

606

Day, Thursday, October 1, A. D. 1895

Comes now in open Court, the plaintiff, by his attorney, and this cause coming on to be heard upon the motion of the plaintiff for an order of publication herein, and the Court being fully advised in the premises, it is ordered that service of summons herein be had upon the defendant, by publication thereof for six consecutive weeks in the Daily Herald, a newspaper published in Provo City, Utah County, Utah, the first publication to be made forthwith.

Comes now the plaintiff, by his attorney, and this cause coming on to be heard upon the motion of the plaintiff for an order of publication herein, and the Court being fully advised in the premises, it is ordered that service of summons herein be had upon the defendant, by publication thereof for six consecutive weeks in the Daily Herald, a newspaper published in Provo City, Utah County, Utah, the first publication to be made forthwith.

Witness' Fees:	2 days	170 miles travel.	$11 [illegible]
Witness' Fees	2 "	170 " "	11 50
Witness' Fees	2 "	170 " "	11 50

In the matter of the proceeding against
Thomas H. Nelson and Charles A. Sykes

Now comes the committee heretofore appointed herein and the said Thomas H. Nelson and Charles A. Sykes also appear attended by their counsel Frank Henninger, A. B. Hall, N. C. Hills and F. M. Clancy Esquires, and thereupon the Court hears a portion of the evidence, and it is ordered that the said Joel Lloyd Snyder, a witness in this proceeding, be and the same is hereby required to be and appear before this Court on Friday morning, October 11th, 1895 when the incoming of the train leaving Minneapolis at 1:30 P.M. shall have arrived, with them any letters or request in writing from Thomas H. Nelson or Charles A. Sykes directed to D. M. Berry or himself, now on file in the office of the Auditor of the Atlantic and Pacific Railroad, in the City of Minneapolis, evidencing the issuance of a pass to Joel Lloyd Snyder, or any records in said office showing the issuance of such pass.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Hunter

Thirty-Seventh Day, Thursday, October 17th. 1895

Court meta Pursuant to adjournment.

Present, as upon yesterday.

The records of yesterdays proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at half past nine o'clock

Thomas Smith

Thirty-Eighth Day, Friday, October 18th. 1895.

Court meta Pursuant to adjournment

Present, as upon yesterday

The records of yesterdays proceedings is read and approved.

Whereas Edmund Jo. Hall United States Marshal has rendered to this Court an account of actual Expenses incurred by his Deputy Jose A. Romero in going from Bernalillo N.M. to Laventon Ranch, N.M. to make Service of Warrant, August-no. 30, 31st, Sept 1st, 2, 4th and 5th, 1895, on Teodosa Romero Chaves de Vasquez and return to Bernalillo N.M., with the vouchers and items filed, and in the presence of; U.S. Attorney Hemingway Esq. United States Attorney, that proved, on oath to the satisfaction of the Court that the items and amounts therein charged were actually and necessarily paid as therein stated, in lawful money; and whereas said items and amounts appear to be just and according to law, It is hereby ordered that the said account amounting to Sixteen Dollars and no cents, Dos and the same is hereby approved.

Whereas Edmund Jo. Hall United States Marshal has rendered to this Court an account of actual Expenses incurred by this Deputy Jose Ma. Aragon in going from Santa Fe N.M. to San Marcos via Chamita, Amargo, Cayote Cabra and from Tejoya N.M. to make service of Warrant July 6, 7, 8, 9, 10 11, 12, 13, 14 15, 16, 17, 18, 19, 20, 21, 22, 23 & 24, 1895 on Antonio Zamora, and return

Chavita N.M. with the vouchers and items thereof and in the presence of C.B. McKinney Esq. United States Attorney has proved on oath to the satisfaction of the court that the items and amounts therein charged were actually and necessarily paid as therein stated, in lawful money and whereas said items and amounts appear to be just and according to law; It is hereby ordered that the said account amounting to thirty eight dollars and no cents be, and the same is hereby approved.

Thereupon Edwards & Neal United States Marshal has rendered to the court his account of actual expenses incurred by his deputy H.H. Loomis in going from Santa Fe N.M. to Cundeton N.M and vicinity to make service of two subpoenas and return to N.M. with the vouchers and items thereof, and in the presence of C.B. McKinney Esq. United States Attorney has proved on oath to the satisfaction of the court, that the items and amounts therein charged were actually and necessarily paid as therein stated, in lawful money; and whereas said items and amounts appear to be just and according to law; It is hereby ordered that the said account amounting to thirty eight dollars and no cents be, and the same is hereby approved.

Thereupon Edwards & Neal United States Marshal has rendered to the court his account of actual expenses incurred by his deputy H.H. Loomis in going from Santa Fe N.M. to Cundeton N.M and vicinity to make service of warrant dated Oct. 2nd, 3rd, 4th, 5th and 6th, 1895 on Emilio Zayolba and return to N.M. with the vouchers and items thereof, and in the presence of C.B. McKinney Esq. United States Attorney has proved on oath to the satisfaction of the court, that the items and amounts therein charged were actually and necessarily paid as therein stated, in lawful money; and whereas said items and amounts appear to be just and according to law; It is hereby ordered that the said account amounting to twelve dollars and no cents be, and the same is hereby approved.

Thereupon Edwards & Neal United States Marshal has rendered to the court an account of actual expenses incurred by the deputy H.H. Loomis in going from Las Vegas N.M. to Las Cruces N.M. to make service of warrant returnable Oct 7th A.D. 1895 on Dolores Gallegos and return to N.M. with the vouchers and items thereof, and in the presence of C.B. McKinney Esq. United States Attorney has proved on oath to the satisfaction of the court that the items and amounts therein charged were actually and necessarily paid as therein stated, in lawful money and where said items and amounts appear to be just and according to law. It is thereby ordered that the said account, amounting to one dollars and no cents be and the same is thereby approved.

Thereupon Edwards & Neal United States Marshal, has rendered to this court an account of actual expenses incurred by the deputy H.H. Loomis in going from Springer N.M. to Raton N.M. to make service of warrant July 7th A.D. and 9th. 1895, on Abad Lobato, Teodoro and Pedro Lobato and return to N.M. with the vouchers and items thereof, and in the presence of C.B. McKinney Esq. United States Attorney has proved on oath to the satisfaction of the court that the items and amounts therein charged were actually and necessarily paid as therein stated, in lawful money; and where said items and amounts appear to be just and according to law, It is hereby ordered that the said account amounting to four dollars and thirty five cents be and the same is hereby approved.

Thereupon Edwards & Neal, United States Marshal, has rendered to this court an account of actual expenses incurred by his deputy C. D.

Logan in going from Las Cruces N.M. to El Paso, Tex., to make service of warrant September 2d 1895, on Louis Deskins and return to Las Cruces N.M. with the vouchers and items thereof, and in the presence of U. S. Hemingway Esq, United State Attorney, has proved on oath to the satisfaction of the Court that the items and amounts therein charged were actually and necessarily paid, as therein stated, in lawful money; and whereas, said items and amounts appear to be just and according to law; It is hereby ordered that the said account amounting to two dollars and ninety cents be and the same is hereby approved.

Whereas Edwards S. Hall United States Marshal has rendered to this Court an account of actual expenses incurred by his deputy Eugene Logan in going from Clayton N.M. to Texas line, N.M. to make service of warrant on Juan Domonia de Garcia and Davis Least and return to N.M. with the vouchers and items thereof, and in the presence of U. S. Hemingway Esq., United States Attorney, has proved on oath to the satisfaction of the Court that the items and amounts therein charged were actually and necessarily paid, as therein stated in lawful money; and whereas said items and amounts appear to be just and according to law; It is hereby ordered that the said account amounting to two dollars and no cents be and the same is hereby approved.

Whereas Edwards S. Hall, United States Marshal, has rendered to this Court an account of actual expenses incurred by his deputy Baylon Shannon in going from Silver City N.M. to Central City, N.M. to make service of warrant on Joseph Donnelly and return to Silver City, N.M. with the vouchers and items thereof, and in the presence of U. S. Hemingway Esq. United States Attorney, has proved on oath to the satisfaction of the Court, that the items and amounts therein charged were actually and necessarily paid, as therein stated, in lawful money, and whereas, said items and amounts appear to be just and according to law; It is hereby ordered, that the said account amounting to four dollars and no cents be and the same is hereby approved.

In motion of U. S. Hemingway Esquire, It is ordered by the Court that Tomas B. Montoya, a member of the Bar of the Second Judicial District Court be and he hereby is admitted to practice as an attorney, solicitor and counselor of this court, and thereupon the said Tomas B. Montoya appeared in open court and takes the oath prescribed by the rules of this court.

Now comes John Cominolo, an alien, and makes application to be admitted to become a citizen of the United States; and it being made to appear to the satisfaction of the court, by the testimony under oath, of Tomas Bustamente and Manuel Bustamente, citizens of the United States that

Eighty Eighth Day, Friday October 31st A. D. 1890

[illegible] Ordinance relative to the City Cemetery and providing for the removal of the dead bodies now interred therein to the new Cemetery, and to the sale of the lots in the old Cemetery, and the application of the proceeds of such sale, and that the Ordinance relative to the Cemetery of the Mission Dolores, and to the sale of the lots therein, and the application of the proceeds of such sale, be repealed.

Which said Ordinance was read and adopted by the following vote:

Ayes: Supervisors Bahrenburg, Barry, Bryant, Crimmins, Grace, Kelly, Sullivan, Wilson, Wolf - 9.

Noes: None.

Absent: Supervisor Hayden - 1.

The Clerk read the following Ordinance:

An Ordinance providing for the removal of the dead bodies now interred in the City Cemetery, and for the sale of the lots in the old Cemetery, and the application of the proceeds of such sale, and that the Ordinance relative to the Cemetery of the Mission Dolores, and to the sale of the lots therein, and the application of the proceeds of such sale, be repealed.

The Board of Supervisors of the City and County of San Francisco do ordain as follows:

Section 1. That the Ordinance relative to the City Cemetery, and for the removal of the dead bodies now interred therein, and for the sale of the lots in the old Cemetery, and the application of the proceeds of such sale, and that the Ordinance relative to the Cemetery of the Mission Dolores, and to the sale of the lots therein, and the application of the proceeds of such sale, be repealed.

Section 2. This Ordinance shall take effect from and after its passage.

Supervisor Grace moved that the Ordinance be passed for printing and reading.

Supervisor Barry moved to amend by striking out the words "be passed for printing and reading" and inserting in lieu thereof the words "be referred to the Committee on Public Health and Cemeteries."

Supervisor Grace moved that the Board do now adjourn.

Supervisor Barry moved that when the Board adjourns it adjourn to meet on Monday next at 2 o'clock P. M.

admitted to become a citizen of the United States; and it being made to appear to the satisfaction of the Court, that more than two years since, the said Julius Maratta declared on oath before A. E. Walker, Clerk of the First Judicial District Court of New Mexico that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to Francis Joseph Emperor of Austria, and it being further made to appear to the satisfaction of the court by the testimony under oath of A. G. Fondoul and George B. Brady citizens of the United States that the said Julius Maratta has resided within the United States five years at least, and within the Territory of New Mexico one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and the said Julius Maratta declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty and particularly to Francis Joseph Emperor of Austria, It is ordered by the Court that the said Julius Maratta be and he hereby is admitted to become a citizen of the United States.

Now comes Andrea Cadena, an alien, and makes application to be admitted to become a citizen of the United States: and it being made to appear to the satisfaction of the court, that more than two years since, the said Andrea Cadena declared on oath before Charles F. Hunt, Clerk of the Second Judicial District Court of New Mexico that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty and particularly to Francis Joseph Emperor of Austria, and it being further made to appear to the satisfaction of the court by the testimony under oath of Romeo Bustamente and Manuel Bustamente citizens of the United States that the said Andrea Cadena has resided within the United States five years at least and within the Territory of New Mexico one year at least, and that during that time he has behaved as a man of good moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same: and the said Andrea Cadena declared on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, and particularly to Francis Joseph Emperor of Austria, It is ordered by the court that the said Andrea Cadena be and he hereby is admitted to become a citizen of the United States.

...Day, ... A. D. 189...

...

...

account of his fees and expenses from the 1st day of July, 1895 to the 28th day of September, 1895 with the vouchers and items thereof, and in presence of J. B. McHemingway, Esq., United States attorney has proved, on oath to the satisfaction of the Court that the services and travel charged therein were actually and necessarily performed, and that the expenses were necessarily incured, and that no per diems are charged for attendance in court except for days when the court was opened by the Judge for business, or business was actually transacted in court, and when attendance was under Sections 583, 584, 1071, 1072, and 2013 of the Revised Statutes; and whereas said charges appear to be just and according to law: It is hereby ordered that the said account, amounting to Two Thousand Two Hundred and One dollars and twenty eight cents be and the same is hereby approved.

Whereas Edwards To. Hall United States Marshal has rendered to this Court an account of his disbursements for Fees of Jurors in attendance upon the United States Courts during the periods from September 2d 1895 to September 14th, 1895 with the vouchers and items thereof, and in presence of J. B. McHemingway Esq. United States attorney, has proved, on oath to the satisfaction of the Court that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law, It is hereby ordered that the said account, amounting to Two Thousand One Hundred and Fifty Two dollars and twenty cents, be and the same is hereby approved.

Whereas, Edwards To. Hall, United States Marshal has rendered to this court an account of his disbursements for support of prisoners from the 5th day of April, 1895 to the 24th day of May, 1895 with the vouchers and items thereof, and in presence of J. B. McHemingway Esq., United States attorney has proved on oath to the satisfaction of the Court that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law. It is hereby ordered that the said account amounting to Two Thousand Four Hundred and Forty Four Dollars and forty five cents be and the same is hereby approved

Whereas Edwards To. Hall United States Marshal has rendered to this court an account of his disbursements for support of prisoners from the 24th day of June 1895 to the 24th day of June, 1895, with the vouchers and items thereof and in presence of J. B. McHemingway Esq. United States Attorney, has proved on oath, to the satisfaction of the court, that the services and travel charged therein were actually and necessarily performed, and that the expenses were necessarily incured, and that no per diems are charged for attendance in Court except for days when the Court was opened by the Judge for business, or business was actually transacted in court, and when attendance was under Sections 583, 584, 1071, 1072, and 2013 of the Revised Statutes; and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to Five dollars and no cents, be and the same is hereby approved.

Whereas, Edwards To. Hall, United States Marshal, has rendered to this court an

vouchers & the instruments are exhibits of charges from the 1st day of July, 1895 to the 31st day of December 1895 with the vouchers and items thereof, and it appearing by U.S. Commissioner Esq. United States Attorney has moved, or said to the Court that the disbursements charged were duly paid in lawful money, and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to Three Thousand Three Hundred and Eighty three dollars and thirty cents be and the same is hereby allowed.

Whereas Edward E. Ross, United States Marshal has rendered to this Court an account of the disbursements for subsistence Expenses of the United States Courts during the Term from July 1st, 1895 to October 31st with the vouchers & items thereof, and it appearing by U.S. Commissioner Esq. United States Attorney has moved, or said to the Court that the services and disbursements charged were duly paid in lawful money, and whereas said charges appear to be just and according to law, It is hereby ordered that the said account amounting to Three Thousand Three Hundred and Eighty three dollars and thirty cents be and the same is hereby allowed.

Whereas, Edward E. Ross United States Marshal has rendered to this Court an account of the disbursements for subsistence Expenses of the United States Courts during the Term from July 1st, 1895 to October 31st with the vouchers and items thereof, and it appearing by U.S. Commissioner Esq. United States Attorney has moved, or said to the satisfaction of the Court that the services and disbursements charged therein were actually and necessarily performed, and that no per diems are charged for attendance on Court except for days when the Court was adjourned by the Judge for Sundays or Holidays and actually transacted in Court and when attendance was under Sections 583, 584, 585 and 2013 of the Revised Statutes, and whereas said charges appear to be just and according to law. It is hereby ordered that the said account amounting to Forty Three dollars and Thirty two cents be and the same is hereby allowed.

Whereas, Edwards E. Ross United States Marshal for Idaho rendered an account in this Court on account of the disbursements for subsistence Expenses of the United States Courts during the Term from July 1st, 1895 to October 31st with the vouchers and items thereof, and it appearing by U.S. Commissioner Esq. United States Attorney has moved, or said to the satisfaction of the Court that the services and disbursements charged therein were actually and necessarily performed, and that no per diems are charged for attendance on Court except for days when the Court was adjourned by the Judge for Sundays or Holidays and actually transacted in Court, and when attendance was under Sections 583, 584, 585 and 2013 of the Revised Statutes, and whereas said charges appear to be just and according to law. It is hereby ordered that the said account amounting to Forty Three dollars and Thirty three cents be and the same is hereby allowed.

It is ordered that Court do now adjourn until tomorrow morning at half past nine o'clock.

Thomas Smith

Chief Justice

Court meets pursuant to adjournment

Present, as upon yesterday.

The records of yesterday proceedings is read and approved

No. 1

Appeal from District Court of Santa Fe County.

No. 2

Appeal from District Court of Santa Fe County.

The foregoing two causes having been decided by the Court on March 2nd, 1895, the Court now files the written opinions in said causes.

No. 1 Thomas B. Catron et al. Plaintiffs

vs.

Charles A. Spiess et al. Defendants

No. 2 Thomas B. Catron et al. Plaintiffs

vs.

Charles A. Spiess et al. Defendants

I am duly sworn to commit the foregoing abstracts by the Court, and do again come the said Thomas B. Catron and Charles A. Spiess attended by their counsel and thereupon the same have further witness in the proceedings

Now comes Eugene Lamay and asks and makes application to be admitted to become a citizen of the United States; and it being made to appear to the satisfaction of the court that more than two years since the said Eugene Lamay declared on oath before the Probate Clerk of the County

Thirty-Ninth Day, Saturday, October 19th A. D. 1895

of Common Pleas of Northumberland County, Pennsylvania that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to Leopold II. King of Belgium, and it being further made to appear to the satisfaction of the Court by the testimony under oath of John Conley and Leo C. Mattis, citizens of the United States, that the said Eugene Sweeney has resided within the United States five years at least, and within the Territory of New Mexico one year at least, and that during that time he has behaved as a man of good moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and the said Eugene Sweeney declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to Leopold II King of Belgium, It is ordered by the court that the said Eugene Sweeney be, and he thereby is admitted to become a citizen of the United States.

[illegible] the Quarterly Statement of the County for the quarter ending [illegible] and the Auditors Report thereon filed, and the Court having approved the same, and it appearing to the satisfaction of the Court that the several persons charged therein as Innkeepers, Storekeepers, Grocers, Confectioners, Peddlers, Auctioneers, Pawnbrokers, Theatrical Exhibitions, Circuses, Menageries, Concerts, Shows, Billiard Tables, Bowling Alleys, Pigeon Hole Tables, Ten Pin Alleys, Exhibitions of Natural or Artificial Curiosities, Eating Houses, Lunch Stands, Ice Cream Saloons, Soda Water Fountains, Bottling Establishments, Manufacturers of Cigars, Manufacturers of Tobacco, Dealers in Leaf Tobacco, Dealers in Cigars, Dealers in Manufactured Tobacco, Dealers in Snuff, Dealers in Cigarettes, Dealers in Oleomargarine, Dealers in Filled Cheese, Dealers in Process or Renovated Butter, Brokers, Billposters, Venders of Patent Medicines, Venders of Perfumery, Venders of Toilet Articles, Venders of Proprietary Articles, Venders of Chemicals, Venders of Essences, Venders of Drugs, Venders of Medicines, Venders of Liquors, Venders of Malt Liquors, Venders of Wines, Venders of Cordials, Venders of Ales, Venders of Beers, Venders of Porters, Venders of Cider, Venders of Vinegar, Venders of Soda Water, Venders of Mineral Waters, said charges appear to be just and according to law, it is ordered that said account and charges be and the same are hereby confirmed and allowed, and the same as herein allowed and confirmed, was the 19th day of October, 1895.

It is ordered that Court be now adjourned until next Monday morning at ten o'clock.

Thomas Smith

Fortieth Day. Monday. October 21st. 1895.

Court met. pursuant to adjournment.

Present, as upon Saturday last

The records of Saturday proceedings in said cause read.

Sandoval of the Court, Appellant,

vs.

The Territory, Appellee.

Appeal from Bernalillo County.

This cause having been argued by counsel, and submitted, and taken under advisement by the Court upon a former day of the present term the Court being more fully advised in the premises, announces its opinion by Associate Justice Collier, affirming the judgment and decree of the Court below, and remanding this cause to the lower Court with instructions to grant a new trial thereof; It is therefore considered and adjudged by the Court that the judgment in this cause by the District Court in and for the County of Bernalillo be reversed and this Court do and the same hereby is reversed and that this cause be and the same hereby is remanded to the District Court with instructions to grant a new trial thereof.

670

Jose Leon, Administrator, Appellee

vs.

Appeal from Bernalillo County.

Jose Leon, Administrator, Et al, Appellants

Now comes the defendant and appellant Geo. H. Harrison and files herein his attorney of the National Surety Company of Kansas City, Missouri, appointing W. H. Young its attorney in fact to accept service for said Company and acknowledge the service upon said Young under the provisions of an act of Congress authorizing the fixing of bonds and recognizances in judicial proceedings and in other cases by surety companies and also files the certificate of the Attorney General of the United States as to the solvency of said Company in accordance with said act. and said appellant and defendant now asks the Court to make an order of fact in said cause as requested by him for the purpose of enabling the said appellant to appeal said cause to the Supreme Court of the United States, and further asks the Court to approve said bond and order said appeal with making said findings and to grant him an order suspending the decree rendered in said cause, and appellant also files an affidavit showing the jurisdiction on appeal to said Supreme Court of the United States. All of which matters the Court takes under advisement until noon for the appellant and appellees in the cause to be said in open court and the counsel for appellees can be heard on whether the bond is sufficient.

Fortieth Day, Monday, October 4th A. D. 1895

In the matter of the proceeding against
Thomas B. Catron and Charles A. Spiess.

Now again comes the Committee heretofore appointed by the Court herein, and also again comes the said Thomas B. Catron and Charles A. Spiess attended by their Counsel, and the Court hears further evidence in this proceeding

The Territory of New Mexico Relator

vs.

Appeal from District Court of Santa Fe County.

Jesus Luciano and Feliciano Chavez, Appellants.

This cause having been argued by Counsel and submitted to, and taken under advisement by the Court upon a motion by the Court from the Court having now sufficiently advised in the premises, announced its decision by Associate Justice Collier affirming the judgment and sentence of the Court below in this cause. Associate Justice Santa and Seamster concurring, for reasons stated in the opinion of the Court or this, it is therefore ordered and adjudged by the Court that the judgment and sentence in the cause of the District Court in and for the County of Santa Fe, wherein the said cause came into the Court be, and the same hereby is severally and in all things affirming that the date fixed by said District Court for the execution of said defendants Jesus Lucero, it is now further ordered and adjudged by the Court that the said Jesus Luciano and Feliciano Chavez be and they hereby are committed to the custody of the Sheriff of the County of Santa Fe, there to remain until Tuesday the 15th day of December 1895, and on said day to be thence conveyed to some suitable spot within said County of Santa Fe, and between the hours of six o'clock in the morning and ten o'clock in the morning of said day, the said Jesus Luciano and the said Feliciano Chavez, to be by said Sheriff hanged by the neck until he be dead; and it is further ordered and adjudged by the Court that a true certified copy of this judgment and sentence, attested by the Clerk of the Court shall be the warrant to said Sheriff for the due execution hereof.

It is ordered that Court do now adjourn until tomorrow morning at half past nine o'clock.

Thomas Smith

Forty-First Day, Tuesday, October 22. 1895

Court meets pursuant to adjournment

Present as upon yesterday.

The records of yesterdays proceedings as read and approved

Isidro Pena, Administrator, etc. Appellee,

vs.

George W. Thomason, Administrator, etc. Appellant

Appeal from District Court of Bernalillo County

Now on reading and filing the motion of appellant in the above entitled cause, praying an appeal in said cause from the judgment and decree of this court to the Supreme Court of the United States; It is ordered that an appeal in said cause be and the same is hereby granted as prayed for.

Thomas Smith
Chief Justice of the Supreme Court of the Territory of New Mexico.

1037

In the matter of the proceeding against
Thomas B. Catron and Charles A. Spiess

Now again comes the Committee heretofore appointed by the court herein, and also again comes the said Thomas B. Catron and Charles A. Spiess attended by their counsel, and the court hears further evidence in this proceeding.

It is ordered that the court do now adjourn until tomorrow morning at

Thomas Smith

Forty-Second Day. [illegible] A. D. 1895

Forty-Second Day, Wednesday, [illegible] 23, 1895

Court met pursuant to adjournment -

Present as upon yesterday.

The records of yesterdays proceedings is read and approved.

1071

Territory of New Mexico, Appellee
vs.
Durano Ortiz, Appellant

Appeal from Santa Fe County

The cause having been submitted, is and taken under advisement by the court upon a former day of the present term, the Court having sufficiently advised in the premises, announces its decision by Associate Justice Bantz, Associate Justice Collier and Reamitson concurring, reversing the judgment of the court below and remanding this cause for a new trial: It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Santa Fe in this cause came into this court for and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court with instructions to grant a new trial herein

On motion of H. B. Ingusson Esqure, It is ordered by the court that Horace William Coomes a member of the bar of the third Judicial District Court be and he hereby is admitted to practice as an Attorney, Solicitor of this court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this court.

554

Antonio F. Jaramillo Appellee
vs.
The Springer Land Association Et al Appellants

Cause now, to wit on [illegible] it is ordered that the mandate heretofore issued herein be recalled, and that the appellees have leave to file their motion to dismiss appeal, or to docket cause, in open court, and it is further ordered that the clerk of the Supreme Court issue a writ of supersedeas, directed to the Sheriff of Colfax County, commanding him to suspend all proceedings in said cause, and that upon the filing of a bond in the sum of Seven hundred dollars with sufficient sureties, to be approved by the said Justices of this court, in the usual form, execution of the judgment appealed from and further proceedings thereunder be suspended till the decision thereon by the Supreme Court of the United States.

Thomas B. Catron, Chief Justice.

Antonio J. Lobato, Appellee,
vs.
The Springer Land Association, Et al, Appellants

Appeal from Colfax County.

The defendants in the above entitled cause, on this day come

and pray the court to make and certify a statement and findings of the facts established by the evidence in said cause, which is accordingly done.

Thomas Smith
Chief Justice.

Whereas, W. B. Walton, Clerk of the District Court of the Third Judicial District of the Territory of New Mexico has rendered an account for fees and per diems for services rendered as such Clerk at and prior to said September A. D. 1895 term thereof, together with the items of said account, and in the presence of J. B. H. Hemingway Esq. the United States attorney for the Territory of New Mexico, has proven on oath to the satisfaction of that Court that the services therein charged have been actually and necessarily performed as therein stated, and on the days per diem as charged (except the first day of April A.D. 1895.) Court was duly opened by the marshal in conformity with law and business transacted, and as such charges appear to be just and according to law, it is ordered that said account amounting to the sum of Eight hundred and sixty six & 1/100 Dollars be and the same is hereby allowed.

Pedro Pena, Administrator, Etal
vs
George H. Harrison, Administrator, Etal

Appeal from Bernalillo County.

On reading and filing the motion of Pedro Pena, Administrator, Etal, in the above entitled cause, praying for the allowance of a cross-appeal therein, from the judgment of the Supreme Court of the Territory of New Mexico, to the Supreme Court of the United States, It is ordered that the cross-appeal as prayed for in said motion be and the same is hereby allowed

Thomas Smith, Chief Justice.

[illegible] Contempt.

[illegible] court upon a former day of the present term, and taken under advisement by the court, the court being now fully advised in the premises, announces its decision by Chief Justice Smith, Associate Justices Laughlin, Collier, & Hamilton and Bantz concurring, as to the guilt of respondent. Associate Justices Bantz, Hamilton dissenting, as to the punishment inflicted, adjudging the said Thomas Houghes guilty of a contempt of this court, and assessing his punishment to a fine of one dollar and the costs herein expended to be taxed, and also imprisonment for the period of sixty days. It is therefore considered and adjudged by the court that the said Thomas Hughes do make unto the Territory of New Mexico the sum of one dollar fine and the costs in this proceeding to be taxed and that execution issue therefor; that the stand committed to the custody of the United States Marshal, to be by him conveyed to Albuquerque in the County of Bernalillo and delivered to the Sheriff of said County, to be by said Sheriff safely and securely confined in the common jail of the County of Bernalillo for the full term of sixty

Now knowing the Court's will he took recognizance of Tennant and against him.

In the matter of the proceeding against
Thomas B. Eaton and Charles O. Ayer

Now again comes the Commonwealth Attorney by the Court & him, and again comes the said Thomas B. Eaton and Charles O Ayer attended by their counsel, and the Court hears the arguments of the evidence thereon, and thereupon the cause is submitted to said Court upon the court minutes argument.

Ida Bass

vs

Thomas Berry as Trustee & Public Account, Thomas Eaton & Thomas Eaton, and Commissioner of Public Lands & Endowments.

Writ from Canter Co County.

Now comes the said Ida Bass duly & her Solicitor, and moves the Court to grant him an appeal from the judgment and decree of this Court in the Supreme Court of the United States, and the Court being fully advised in the premises, grants said motion. It is therefore ordered by the Court that the said Ida Bass be, and he hereby is granted an appeal from the judgment and decree of the court in the cause, to the Supreme Court of the United States.

It is ordered that Court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith

Forty-Third Day, Thursday, October 24th 1895

Court met pursuant to adjournment

Present as upon yesterday, except Hon. N. B. Laughlin, Associate Justice.

The records of yesterday's proceedings is read and approved.

6444 In the matter of Louis Gonzales. } Contempt

It is ordered by the Court that the proceeding &c. and the same hereby is dismissed and that the United States Marshal in whose custody the said Louis Gonzales he now is be and he hereby is ordered to convey him to Albuquerque, in the County of Bernalillo, New Mexico, and then and there deliver him into the custody of the Sheriff of said County, from whom said Marshal received him upon the attachment heretofore issued therein.

It is ordered by the Court that A. B. Fenton Stenographer and Rafael Romero Interpreter &c. and they hereby are excused from further attendance.

In the matter of the proceedings against } Contempt
Page B. Otero

Now comes the Committee having charge of the prosecution of this proceeding and the said Page B. Otero appears in his own proper person attended by his counsel E. B. Bartlett Esq., and the Court after hearing the said interrogatories and the answers thereto made, and after hearing said testimony, announces its decision discharging said respondent; It is therefore considered and adjudged by the Court that he with respect to the proceeding go hence without day.

In the matter of the proceeding against } Contempt
Thomas B. Catron and Frances A. Keese

It is ordered by the Court, that all witnesses subpoenaed by the Committee heretofore appointed herein, and who have been in attendance upon the Court in obedience to such subpoenas, be paid for their attendance and mileage by the United States Marshal for the Territory of New Mexico.

Thomas Smith, Chief Justice.

In accordance with the order made in Proceeding No 189 in this Court, It is now ordered by the Court that the witnesses in said Proceeding be and they hereby are allowed the amounts set opposite their names, as follows:

Julia Valencia	16 days	432 miles	115.60
Felipa Martinez de Chavez	16 "	36 "	25.80

Forty-Third Day, Tuesday, October 1st A. D. 189[illegible]

Domingo Abadano	No day		$11.00
Ramon Baeza	10		15.00
Maria de Jesus	11 "		15.10
Manuel Arana	11 "		15.50
Jo. F. De Lamy	11 "		16.50
Paul A. Snyder	15 "		21.50
Francis Lewis	1 "		1.50
Charles Hagner	1 "		1.50
Jo. Fuller	2 "		3.00
Jo. F. Walker	1 "		1.50
Jos. Schumann	1 "		1.50
Bernardo Delgarau	1 "		1.50
Manuel Gonzales	No "		$11.00
Hugo B. Otero	2 "		3.00
Max Goodt	2 "		3.00
Thomas Vaughn	15 "	15 "	23.50
W. F. McCormick	15 "	15 "	23.50
Thomas J. Purcal	15 "	15 "	23.50
W. C. Fuller	15 "	15 "	23.50
J. C. Lewis	1 "		1.50
C. Keenan	2 "		13.50
F. W. Walker	1 "	15 "	$10.00
W. H. Wells	2 "	15 "	40.00
Jesus Gonzales y Baca	16 "		$24.00
Elbert Turner	1 "	15 "	15.60
J. E. Dunn	2 "		6.00
Max Goodt	10 "		15.00
Walter Goodstadt	2 "		10.50
C. D. Zollman	2 "		10.50
J. Kinsey	2 "		6.00
Jo. F. Dunn	2 "		6.00
Blas Gonzales	8 "		$8.00
Lee Hemphill	1 "		1.50
Abe Hemphill	1 "		1.50
H. H. Eudaldo	4 "		6.00
Luis Gonzales	10 "		15.00

Estado vs. Geo. Apodaca

vs.

Texas Improv. Bonds Association, Etc. Appellants

Error from Bexar County.

It is ordered by the court that the submission bonds entered by said appellants on appeal from said District Court to this court, shall be, and the same hereby is declared to be the submission bonds in this cause on appeal from this court to the Supreme Court of the United States.

It is ordered by the court that Robert Rooney be, and hereby is allowed the sum

& Fifty Six dollars for eight days attendance as Interpreter to the Court.

It is ordered that Court do now adjourn until Monday morning at ten o'clock

Thomas Smith

Forty fourth Day. Monday October 28th A D 1895-

Court meets pursuant to adjournment.

Present Hon Thomas Smith chief Justice, and Hons N B. Collier H. B. Hamilton and N. B. Laughlin.

The record of Thursdays proceedings is read and approved

637 In the matter of the proceeding against Thomas Blatton 2d & Chas A Spiess

This matter having been heard and taken under advisement by the Court at a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Associate Justices Bantz and Hamilton concurring, and Associate Justice Laughlin dissenting, finding the respondents not guilty of the charges and Specifications herein preferred against them, for reasons in part set forth orally at this time by Associate Justice Hamilton and to be set forth more in detail in the opinion of the Court hereafter to be filed. It is therefore considered and adjudged by the Court that the said respondents, Thomas R. Blatton and Charles A. Spiess, as to said Charges and Specifications go hence without day.

647. In the Matter of the application of Juan de Dios Lucero } Habeas Corpus

Upon reading and filing the petition of Juan de Dios Lucero. It is ordered by the Court that a Writ of Habeas Corpus, returnable on the 19th day of December A D 1895- be issued to the Sheriff of Mora County, requiring him

to produce the body of the said Petitioner befor this Court.

It is ordered by the Court that the freeming allowance be and the same is hereby made to A. B. Renehan as Stenographer. $ 294.00

It is ordered that Court do now adjourn until the 19th day of December A D 1895 at ten oclock in the morning of said day.

Thomas Smith

Chief Justice,

Forty Fifth Day, Thursday Dec 19th, 1895.

Court meits pursuant to adjournment.

Present Hon Thomas Smith, Chief Justice, and Hons H. B. Hamilton, N. B. Laughlin and G. D. Bantz, Associate Justices.

The record of Mondays proceedings is read and approved.

In re
647 Application of Juan de Dios Lucero. } Habeas Corpus.

Now comes the Sheriff of Mora County to whom the writ herein was directed, and produces in open court, the body of said applicant, caption and detention by the writ so commanded; and thereupon the court hears the arguments of W. B. Childers and B. M. Read, attorneys for the applicant, and John P. Victory, Solicitor General of the Territory, A. A. Jones and Charles A. Spiess, Esqrs. against said petition, and the court not being sufficiently adorised in the premises takes the same under adviserment.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice

Forty Sixth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read and approved.

574 John G. Albright et al. Appelle.
vs
Texas Santa Fe and Northern.
R. R. Co. et al. Appellants

Now comes E. A. Fiske, Esq., attorney for appellants and moves the court to grant them a rehearing in this cause for reasons stated in his motion on file; and the court being sufficiently advised in the premises grants said motion; It is therefor considered and adjudged by the court, that the appellants be, and they hereby are granted a rehearing in said cause

650 In re
Jose F. Jaramillo } Habeas Corpus.

Upon reading and filing the petition of Jose F. Jaramillo: It is ordered by the court, that a writ of Habeas corpus returnable forthwith, issue to the Sheriff of Valencia County of the Territory of New Mexico, requiring him to produce the body of said petitioner before this court.

612 Union Trust Company of New York. }
vs } Appeal from the First
Atchison, Topeka and Santa Fe Rail- } Judicial District Court,
road Company. } for Santa Fe. County.
Postal Telegraph-Cable Company.
Intervenor, Appellant

This cause having been submitted to and taken under advisement by the court, upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Laughlin. Chief Justice Smith and Associate Justices Hamilton, Bantz and Collier, concuring reversing the judgment of the court below, and remanding the cause, with directions to the District

Court, to overrule the demurrer, and proceed in accordance with this opinion: It is therfor considered, and adjudged by the court, that the judgment of the District Court, in and for the County of Santa Fe, whence this cause came into this court, be and the same hereby is reversed, and that this cause be and the same hereby is remanded, to said District court, with directions to overrule the demurrer and proceed in accordance with this opinion; It is further considered, and adjudged by the court, that the said appellant, do have and recover, of said appelles its costs in this behalf expended to be taxed, and that execution issue therfor.

In re
650 Jose F. Jaramillo. } Habas Corpus.

Now comes the Sheriff of Valencia County, to whom the writ herein was directed, and produces in open court, the body of the said applicant, together with said writ, and thereupon H. B. Childers Esq. attorney for said applicant, moves the court for a continuance of the cause, for the reasons as stated in open court, and after hearing argument by Neis B. Field, Esq, against said continuance, and the court being sufficiently advised in the premises grants said motion. Thereupon Neis B. Field moves the court to require of said applicant an appearance bond; It was thereupon ordered by the court, that the applicant give a good and sufficient bond, in the sum of Two Thousand Dollars, for his appearance befor this court, on the 5th, day of February 1896. said bond to be approved by the Clerk of this court.

It is ordered by the court that the following allowance be and the same hereby is allowed to C. L. Hall, $28.25 to be paid out of the Supreme Court funds, of the Territory of New Mexico.

In re. Application of = } Habas Corpus.
647 Jose de Dios Lucero.

The court now being fully advised in the premises, denies said motion. It is therfore considered and adjudged by the court that the said petitioner, be and he hereby is remanded to the custody of the Sheriff of Mora Co.

Thomas Smith

Day. A. L. 159

At Santa Fe New Mexico. January. 4th. 1896.

United States of America.

Supreme Court of the Territory of New Mex.

To Walter G. Marmon of Laguna in the County of Bernalillo Territory of New Mexico. - You are hereby appointed United State Court Commissioner at Laguna in the Second Judicial District, to administer, on application, in the proper person the oaths in preliminary proofs required under the homestead timber culture and desert land affidavits and final proofs when the applicant for the benefit of these laws is prevented from personal attendance at the District Land Office, by reason of distance, bodily infirmity, or other good cause. - In performing the duties of this office, you will be governed by the laws prescribed by the act of congress of May 2d. 1890 (26. Stat. at Large. page 121) and the rules of the general Land Office.

Dated at Las Vegas this Thirty-first day of December, A. D. 1895.

Thomas Smith
Chief Justice.

(Seal) Attest Geo L. Wyllys.
Clerk.

United States of America.
Territory of New Mexico.
County of Bernalillo.

I Walter G. Marmon, do solemnly swear that I will support the constitution of the United States, and will, to the best of my knowledge and ability, discharge the duties of the office of United States Commissioner, in the second Judicial District of the Territory of New Mexico, to administer the oaths in preliminary affidavits and final proofs required, under the homestead, timber culture and desert lands laws. So help me God.

Walter G. Marmon.

Sworn to and subscribed before me this 3rd day of January, A. D. 1896

(Seal)

R. W. D. Bryan.
Notary Public.

Day. A. D. 189 3.

At Santa Fe, New Mexico, January 9th, 1896

United States of America.

Supreme Court of the Territory of New Mex.

To E. H. Skipwith of Fort Sumner, in the County of Guadalupe Territory of New Mexico.- You are hereby appointed United States Court Commissioner at Fort Sumner in the Fourth Judicial District, to administer, on application by the proper persons the oaths in preliminary proofs required under the homestead, timber culture and desert land affidavits and final laws when the applicant for the benefit of these laws, is prevented from personal attendance at the District Land office, by reason of distance, bodily infirmity, or other good cause.- In performing the duties of this office, you will be governed by the laws above referred to, the Act of Congress of May 26. 1890, (26. Stat at large, page 121) and the rules of the Genera Land Office.

Dated at Las Vegas ths 2nd. day of January, A. D. 1896.

Thomas Smith,
Chief Justice

(Seal) Attest. Geo. L. Hyllys.
Clerk.

United States of America.
Territory of New Mexico.
County of Chaves.

I. E. H. Skipwith, do solumnly swear that I will support the Constitution of the United States, and will, to the best of my knowledge and ability, discharge the duties of the office of United States commissioner, in the Fourth Judicial District of the Territory of New Mexico, to administer the oaths in preliminary affidavits and final proofs required under the Homestead, timber culture and desert land laws. So help me God.

E. H. Skipwith.

Sworn to and subscribed before me this 6th day of January A. D. 1896.

[Seal] C. A. Keith.

My term expires Nov 1st 1898 Notary Public

Wag. A. C. 159

At Santa Fe, New Mexico. January 21st, 1896.

United States of America,

Supreme court of the Territory of New Mexico.

To Frederick J. Miller, of Vaud in the County of Lincoln Territory of New Mexico.- You are hereby appointed United States Court Commissioner, at Vaud in the Fifth Judicial District, to administer, on application, by the proper person the oaths in preliminary proofs required under the homestead, timber culture and desert land affidavits and final laws when the applicant for the benefit of these laws, is prevented from personal attendance at the District Land Office, by reason of distance, bodily infirmity, or other good cause.- In performing the duties of this office, you will be governed by the laws above referred to, the Act of Congress of May 2d, 1890. (26 Stat at Large, page 121,) and the rules of the General Land office.

Dated, at Santa Fe. this twentieth day of December, A. D. 1895.

Thomas Smith. Chief Justice.

Seal Attest, Geo. L. Hayes. Clerk.

United States of America,
Territory of New Mexico,
County of Lincoln.

I, Fred. J. Miller, do solemnly swear that I will support the Constitution of the United States, and will to the best of my knowledge and ability, discharge the duties of the office of United States court commissioner, in the Fifth Judicial District of the Territory of New Mexico, to administer the oaths, in preliminary affidavits and final proofs required under the homestead, timber culture and desert land laws.

So Help me God. Fred. J. Miller.

Sworn to and subscribed before me this 7th day of Jan. A. D. 1896.

Seal James W. Bennett.
Notary Public

Day, A. D. 189 35

At Santa Fe, New Mexico. January 21st, 1896.

United States of America.

Supreme Court of the Territory of New Mex.

To Clinton F. Prescott, of Belen, in the County of Valencia, Territory of New Mexico. - You are hereby appointed United States Court Commissioner, at Belen, in the Second Judicial District, to administer, on application, by the proper persons, the oaths in preliminary proofs required under the homestead, timber culture and desert land affidavits and final laws, when the applicant for the benefit of these laws, is prevented from personal attendance at the District Land Office, by reason of distance, bodily infirmity, or other good cause. - In performing the duties of this office, you will be governed by the laws above referred to, the Act of Congress of May 26, 1890. (26, Stat at large, page 121) and the rules of the general land office.

Dated at Las Vegas this 17th day of January. A. D. 1895.

Thomas Smith. Chief Justice.

Seal Attest. Geo. L. Hayes. Clerk.

United States of America.
Territory of New Mexico.
County of Valencia.

I, Clinton F. Prescott, do solemnly swear that I will support the Constitution of the United States, and will, to the best of my knowledge and ability, discharge the duties of the office of United States Court Commissioner, in the Second Judicial District, of the Territory of New Mexico, to administer the oaths in preliminary affidavits and final proofs required under the homestead, timber culture and desert land laws. So Help me God.

Clinton F. Prescott.

Sworn to and subscribed before me this twentieth day of January. A. D. 1896.

Simon Bibo
Notary Public

(Seal)

Forty-Seventh Day-

Court meets pursuant to adjournment.

Present Hon. Thomas Smith, Chief Justice, and Hon. N. B. Laughlin, H. B. Hamilton and G. W. Bantz, Associate Justices.

The record of Friday, (December 20th 1895) proceedings is read and approved.

It is ordered by the court, that the following allowances be and the same hereby is allowed to H. H. Loomis, United States Court Marshal, $30.25 to be paid out of the Supreme Court Fund of the Territory of New Mexico.

It is ordered by the court, that the amount of the fine heretofore assessed against Thos Hughes and W. F. McCreight, be and the same hereby is appropriated to pay for the recording the opinions of this court by the Clerk thereof.

It is ordered by the court, that there shall be held in each year, two regular terms of the Supreme Court of New Mexico, to commence on the last Monday in the month of June, and the first Monday in the month January. The July term of said court as heretofore provided is hereby abolished, and all writs, causes and other proceedings returnable ~~or~~ determinable, at the said July term of the year 1896, shall be returnable and determinable at the term commencing on the last Monday in June next, as hereby created.

It is ordered that this court do now adjourn until court in course. All causes not otherwise disposed of are continued

Thomas Smith
Chief Justice

Day, A. D. 189

At Santa Fe, New Mexico, March 26th, 1896.

United States of America,

Supreme Court of the Territory of New Mex.

To Wilson H. Morrow, of Frisco in the County of Socorro, Territory of New Mexico.

You are Hereby appointed United States Court Commissioner at Frisco, in the Fifth Judicial District, to administer, on application, by the proper persons the oaths in preliminary proofs required under the homestead, timber culture, and desert land affidavits and final laws when the applicant for the benefit of these laws, is prevented from personal attendance at the District Land-Office, by reason of distance, bodily infirmity, or other good cause.

In performing the duties of this office, you will be governed by the laws above referred to, the Act of Congress of May 26, 1890 (26. Stat at large, page 121) and the rules of the generas Land Office

Dated at Las Vegas this 11th day of March, A. D. 1896.

Thomas Smith.
Chief Justice

(Seal) Attest, Geo. L. Wrigley.
Clerk.

United States of America.
Territory of New Mexico.
County of Socorro.

I, Wilson H. Morrow, do solemnly swear that I will support the Constitution of the United States, and will to the best of my knowledge and ability, discharge the duties of the office of United States Court Commissioner in the Fifth Judicial District of the Territory of New Mexico to administer the oaths in preliminary affidavits and final proofs required under the homestead, timber culture and desert land laws.

So help me God.

Wilson H. Morrow.

Sworn to and subscribed before me this nineteenth day of March, A. D. 1896.

L. D. Lowe
Justice of the Peace

Day,

A. D. 189

At Santa Fe, New Mexico, March 30th, 1896.

Present as upon February 5th 1896, excepting the Hon. N. C. Collier.

It appearing to the Chief Justice and the Associate Justices of the Supreme Court of the Territory of New Mexico that it is provided by the Organic Act of the Territory of New Mexico, that the time of the annual term of said Supreme Court may be fixed by the Justices of said Supreme Court in vacation or at such other time as a majority of said Justices may determine; And Whereas, it further appears that on, to-wit:- the fifth day of February, 1896, a majority of said Justices did by an order made a part of the records of said Court declare and determine that the term of said Supreme Court beginning on the last Monday in July in each year be and the same is abolished, and instead thereof there should be two terms in each year of said Supreme Court beginning respectively on the last Monday in June of one year, and the first Monday in January of the next year: and it further appearing that there is doubt as to the validity of said order because of its attempting to provide for two terms in each year instead of one, and further because it is also claimed that the fixing of the said annual term is to be by Act of the Legislature, and not by said Justices, Therefore, We, the Chief Justice and Associate Justices of the Supreme Court of the Territory of New Mexico, do hereby revoke and annul said order: and we further order, adjudge and determine, that the annual term of the Supreme Court of the Territory of New Mexico shall begin to be held and be held on the last Monday of July in each and every year, as heretofore.

This March 25th 1896.

Thomas Smith, Chief Justice,
Neidham C. Collier, Associate Justice
F. B. Hamilton " "
Gideon D. Bantz. " "
Napoleon B. Laughlin " "

First Day, Monday, July 27th A. D. 1896.

At a regular term of the Supreme Court of the Territory of New Mexico, begun and held at Santa Fe, New Mexico, the seat of Government of said Territory, on the last Monday of July, 1896, the same being Monday, July 27th, 1896.

Present:---

Honorable Thomas Smith, Chief Justice.
Honorable N. B. Laughlin, Associate Justice.
Honorable Gideon D. Bantz, Associate Justice.
William B. Childers, United States Attorney.
Edward L. Hall, United States Marshal by
H. W. Loomis Deputy.
John P. Victory, Solicitor General for New Mexico.
Geo. L. Wyllys, Clerk of the Supreme Court.

Territory of New Mexico.
vs
681 Jose Padilla } Appeal, Appellant } Appeal from San Miguel County.

By agreement of counsel, It is ordered by the court that this cause be set for hearing on Thursday August 20th, 1896. And it is further ordered that the Appellant herein, furnish the Solicitor Generas of the Territory of New Mexico with a copy of his brief, within the time prescribed by the rules of this court.

Francisco Gonzales y Borrego, et als
vs
618 The Territory of New Mexico, } Plaintiffs in Error. } Error to District Court, Santa Fe County. } Defendant in Error.

Now comes the defendant in error by its Solicitor Generas, and moves the court for leave to file his motion to quash and dismiss the writ of error herein, and the court being sufficiently advised in the premises, grants said motion. And it is further ordered by the court, that this cause be, and the same is set for hearing on the second Monday of the present term, the same being August 3rd, 1896.

661 Scipio Aguilar.
Plaintiff in Error.
vs
The Territory of New Mexico.
Error to San Miguel Co.

On motion of T. B. Catron, Esq. attorney for the Plaintiff in Error. It is ordered by the court, that a writ be, and the same hereby is entered upon the Clerk of the Fourth Judicial District Court, directing him to prepar and send up to this court, forthwith, the transcript of the record herein; or appear and show cause, why he should not be required so to do.

It is ordered by the court that Pablo Padilla be, and he hereby is appointed bailiff to the court, and he thereupon appears in open court, and is duly sworn as such.

663 Mary J. Willey,
Plaintiff in Error.
vs
Berthold Renner.
Error to Bernalillo County.

Now comes Neil B. Field, Esq. Attorney for the Plaintiff in Error, and moves the court for permission to withdraw the transcript herein filed, to enable the Defendant in Error to prepare his brief, and the court being advised in the premises, grants said motion.

298 Lynch Brothers,
Appellees.
vs
Grayson and Company.
Appellants.
Trespass on Case.
Appeal from 3rd District Dona Ana County.

Now comes the said plaintiffs and appellees herein, by their attorney L. B. Newcomb, Esq., and presents to the court here the mandate in this cause of the Supreme Court of the United States, and moves the court to enter an order in accordance therewith, and the court being fully advised in the premises grants said motion. It is therefor ordered by the court that the said appellees George Lynch, William Lynch and Thomas Lynch, partners in trade, doing business under the firm name and style of Lynch Brothers, do have and recover of said appellants Nathan Grayson, George W. Grayson, Archie

First Day, Monday, July 27th A. D. 1896

Borland, Willard S. Hopwell, partners, doing business under the firm name and style of Grayson and Company, the sum of Five Thousand and Two Hundred Dollars with interest thereon from April 3rd 1886. together with all costs in this behalf expended, as well in the court below as in the Supreme Court of the United States, and this court. to be taxed, and that he have execution therefor.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice

Second Day, Tuesday, July 28th, 1896.

Court meets pursuant to adjournment.

Present, as upon Yesterday, and also Hon. H. B. Hamilton, Associate Justice.

The records of Yesterdays proceedings is read and approved.

On motion of Thomas B. Catron Esq., a member of this Bar, - It is ordered by the court that Robert L. Gortner, - a member of the Bar of the First Judicial District, be and he hereby is admitted to practice as an Attorney, solicitor and counsellor of this court, thereupon he appears in open court, and takes the official oath, prescribed by the rules of this court.

Whereas, L. Emmett, United States Commissioner for the 4th Judicial District of New Mexico, has forwarded an account for his services for the quarter ending June 30th, 1896, duly certified and verified by oath attached to said account, and the District Attorney of the Territory, has submitted an account for approval in open court; and it appearing to the satisfaction of the court, that the services therein charged have been actually and necessarily performed as therein stated, and whereas, said charges appear to be just and according to law; It is ordered that said account amounting to $190.00 be, and the same is hereby approved, this 28th day of July, A. D. 1896.

Whereas, M. C. de Baca, United States Commissioner for the Fourth District of New Mexico, has forwarded an account for his official services for the quarter ending June 30th, A. D. 1896, duly certified by oath attached to the account, and the District Attorney has submitted said account for approval in open court, and it appearing to the satisfaction of the court, that the services therein charged have been actually and necessarily performed as therein stated; and whereas said charges appear to be just and according to law; It is ordered that the said account, amounting to Five Hundred and six, ($506,70) Dollars and seventy cents, be, and the same is hereby, approved, this 28th day of July, A. D. 1896.

G. Vorrasa and Company,
Plaintiff in Error,
654 Vs. Error to Grant Co.
Sigmund Lindauer.

By agreement of counsel, It is ordered by the court, that this cause be continued until the next regular term of this court, and that alias citation issue

Herman Clausen,
Plaintiff in Error.
642 Vs Error to Santa Fe Co.
I. B. Napper.

Now comes the said plaintiff in error by his Attorney, James H. Purdy, Esq, and moves the court to dismiss this proceeding, and the court grants said motion; It is therefore considered and adjudged by the court, that this proceeding be, and the same hereby is dismissed, and the said defendant I. B. Napper do have and recover of said plaintiff in error Herman Clausen, his costs in this behalf expended, to be taxed, and that he have execution therefor.

Barbara Mora, Appellant.
225 Vs
Valentine Schick, et al, Appellees. } Appeal from Bernalillo County.

It is ordered by the court, that the Appellant be, and she hereby is required to supply the record herein, on or before the next regular term of this court, or the same will be dismissed without prejudice.

Andres Sena, et al,
Plaintiffs in Error.
404 Vs Error to San
Gross, Blackwell and Company, Miguel County
Defendants in Error.

It is ordered by the court, that the Plaintiffs in Error, be, and they hereby are required to supply the record herein, on or before the first day of the next regular term of this court, or the same will be dismissed without prejudice.

In re,

596 Charles Closson. } Application for Writ of Petitioner.

It is ordered by the court, that this cause be, and the same hereby is dismissed; and that the said petitioner Charles Closson, pay the costs herein, to be taxed, and that execution issue therefor.

F. A. Levy, Plaintiff in Error.
vs
659 Jose A. Ortega, } Error to Socorro Co.

It is ordered by the court, that the plaintiff in error, be, and he hereby is required to supply the record herein, on or before the first day of the next regular term of this court, or the same will be dismissed.

The Territory of New Mexico.
vs
626 Pedro Garcia, Appellant. } Appeal from Bernalillo County.

On motion of the Appellee by her Solicitor General, It is ordered by the court that this cause be, and the same hereby is stricken from the docket; and that the appellant herein be, and he hereby is granted leave, to re-instate said cause, upon proper showing.

Peter H. Ridenour, et al,
Plaintiffs in Error.
vs
648 Charles J. Price, } Error to Grant Co.

It appearing to the court, that the defendant is without counsel herein; It is ordered by the court, that the said defendant, Charles J. Price, be, and he hereby is ruled, to employ counsel for the defense of his said cause.

Andrew B. Laird, Plaintiff in Error.
vs
651 Elizabeth Upton, et al. } Error to Grant Co.

It appearing to the court, that the defendants herein, are without counsel. It is ordered by the court, that the said defendants Elizabeth Upton, et al be, and they hereby are ruled, to employ counsel for the defense of their said cause.

655 Nellie Holmes, Plaintiff in Error,
vs
Bartlett and Tyler. } Error to Valencia County.

Now comes Childers and Hobson and enter their appearance herein, for the defendants Bartlett and Tyler.

664 The Cerrillos Coal Railroad Company,
Plaintiff in Error.
vs
Josephine Beseraut, Administratrix. } Error to Santa Fe. County.

Now comes, Fields, Clancy, and Lester and enter their appearance herein, for the defendant Josephine Beseraut.

667 George W. Middleton,
Plaintiff in Error.
vs
Alexander M. Hendry. } Error to Santa Fe. County.

Now comes Neil B. Fields, and Catron and Spiess, and enter their appearance herein, for defendant, Alexander M. Hendry.

668 Charles Probst, Plaintiff in Error,
vs
The Trustees of the Board of Domestic Missions of the General Assembly of the Presbyterian Church in the United States. } Error to Santa Fe. County.

Now comes E. A. Fiske, Esq., and enters his appearance herein for the said defendant,

673 Early Times Distillery Co. et al.,
Appellants,
vs
Charles Zeiger, et al. Appellees. } Appeals from Bernalillo County.

674 Early Times Distillery Co. et al.
Appellants,
vs
Charles Zeiger, et al. Appellees. } Appeals from Bernalillo County

Now comes Childers and Hobson and enters their appearance in the foregoing two causes for defendant Charles Zeiger.

677 United States of America Appellee. } Appeal from 2nd
vs } District.
B. B. Spencer Appellant.

Now comes A. L. Morrison and Chas. A. Spiess, Esqr., and enter their appearance for Appellant, B. B Spencer herein.

678 J. Q. Miller Appellant. } Appeal
vs
Frank Fagley, et al. Appellees.

Now comes Nues B. Field, Esq., and enters his appearance for Appellees herein.

679 Perfecto Padilla, Plaintiff in Error. } Error to Rio
vs } Arriba County.
The Territory of New Mexico.

Now comes the defendant by her Solicitor Generas, and moves the court for leave to file his motion, to quash and dismiss the writ of error herein, and the court being sufficiently advised in the premises grants said motion, And it is further ordered by the court, that this cause be and the same herby is set for hearing on the second Tuesday, of the present term, the same being August 4th, 1896.

It is ordered by the court, that J. P. Delgado be, and he herby is appointed bailiff to the court, and he thereupon appears in open court and is duly sworn as such.

656 William G. Rogers, Plaintiff in Error. } Error to Santa Fe Co.
vs
Joseph Richards.

Now comes the defendant Joseph Richards and enters his appearance by James H. Sutherlin, Esq."

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith

Chief Justice.

Third Day, Widnesday, July, 29th, 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read & approved.

Whereas, W. S. Williams, United States Commissioner for the District of New Mexico, has forwarded an account of his official services for the quarter ending June 30th, 1896, duly certified by oath, attached to the account, and the District Attorney, the Honorable Wm B. Childers, has submitted said account for approval in open court, and it appearing to the satisfaction of the court, that the services therein charged have been actually and necessarily performed as therein stated, and whereas, said charges appear to be just and according to law. It is ordered that said account amounting to Ninety-seven Dollars and eighty cents be, and the same is hereby approved this 29th day of July, 1896.

Peter D. Ridnour et al.
Plaintiffs in Error.
vs
Charles J. Bruce.
648
Error to Grant Co.

It is ordered by the court, that this cause be and the same hereby is set for argument on Thursday, August 20th, 1896.

First National Bank of Albuquerque et al.
Appellees.
vs
John A. Lee, Executor, et al.
584
Appeal from Bernalillo Co.

This cause coming on for hearing upon the transcript of record, assignments of error, and briefs of counsel on file, is argued by H. L. Warren, Esq. solicitor for said appellees, The First National Bank of Albuquerque, et al; and by Niles B. Field, Esq., Solicitor for said appellants John A. Lee, Executor, et al, and said cause is submitted to the court, and the court not being sufficiently advised in the premises takes the same under advisement.

Third Day. Wednesday, July 29th A. D. 1896.

628

Addison M. James et al, Appellees
vs
Marcus D Brunswick et al, } Appeal from Lincoln County.

This cause coming on upon the motion for a rehearing. It is argued by S. B. Newcomb, Esq. for Appellees, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice

Fourth Day. Thursday, July 30th A. D. 1896.

Fourth Day, Wednesday, July 30th, 1896.

Court meets pursuant to adjournment,

Present as upon yesterday, also the Hon. N. C. Collier Associate Justice.

The record of yesterday's proceedings is read and approved.

Now comes Francisco Pery, an alien, and makes application to be admitted to become a citizen of the United States; and it being made to appear to the satisfaction of the court, by the testimony under oath, of C. M. Conklin, and Aniceto Abeytia, citizens of the United States, that the said Francisco Pery, resided in the United States three years next preceding his arriving at the age of twenty-one years, and has continued to reside therein to the time of making this application, and that he has resided more than five years within the United States, including the three years of his minority, and within the Territory of New Mexico, one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same, and the said Francisco Pery, declaring on oath, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to The Republic of Mexico, and the said Francisco Pery, further declaring on oath, and proving to the satisfaction of the court, that for two years next preceding this application, it has been his bona fide intention to become a citizen of the United States; and the said Francisco Pery, declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, and particularly to The Republic of Mexico. - It is ordered, by the court, that the said Francisco Pery, be, and he hereby is, admitted to become a citizen of the United States.

Fourth Day. Thursday, July 30th A. D. 1896.

Now comes Agustin Salcido, an alien, and makes application to be admitted to become a citizen of the United States, and it being made to appear to the satisfaction of the court, by the testimony, under oath, of C. M. Conklin and Aniceto Abeytia, citizens of the United States, that the said Agustin Salcido, resided in the United States three years next preceding his arriving at the age of twenty-one years, and has continued to reside therein, to the time of making this application, and that he has resided more than five years within the United States, including the three years of his minority, and within the Territory of New Mexico, one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well ~~disposed~~ to the good order and happiness of the same, and the said Agustin Salcido, declaring on oath that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to The Republic of Mexico, and the said Agustin Salcido, further declaring on oath, and proving to the satisfaction of the court, that for two years next preceding this application, it has been his bona fide intention to become a citizen of the United States; and the said Agustin Salcido, declaring on oath, that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince, Potentate, State and Sovereignty and particularly to, The Republic of Mexico, It is ordered by the Court, that the said Agustin Salcido, be, and he hereby is, admitted to become a citizen of the United States.

574 John G. Albright, et al, Appellees. vs. Texas, Santa Fe and Northern Railroad Company. } Appeal from Bernalillo County.

This cause coming on for hearing upon the transcript of record, the assignments of error, and briefs of counsel on file, is argued by William B. Childers,

Esq. solicitor for said Appellee, and by Eugene A. Fiske, and Charles A. Spiess, Esqrs. Solicitors for said defendants, and the court hears a portion of the Arguments.

Odaville Yates, Appellee.

687 vs

Appeal from Santa Fe Co.

The Lincoln-Lucky Gold Ls Mining Company

Now comes the Appellee by his solicitors James H. Sutherlin and Charles A. Spiess, Esqrs; and produces herein in open court, a transcript in said cause duly authenticated, by which it appears, that an appeal was taken by said Appellant, from the decree of the District Court of Santa Fe County, and moves the court to affirm the decree of said court, and enter judgment against said Appellant, and the sureties upon the appeal bond for the amount of the decree rendered in the court below, with interest on the same, and the additional amount ten per cent on the same as damages, together with costs in both Courts, and remand said cause to the District Court of Santa Fe County, with directions to carry into execution the said judgment, and the said motion being submitted to the court, the court grants said motion; - It is therfore considered, adjudged and decreed by the court, that the decree in this cause in the district court, of Santa Fe County, whence the same came into this court, be, and the same hereby is affirmed, with interest as in said decree specified, and with ten per cent additional as damages, and his costs in this behalf expended, as well in the lower court, as in this court to be taxed; - And it appearing to the court, that, Edwin F. Webber, Hiram B. Cartwright and Charles W. Dudrow are sureties on the appeal bonds herein: It is further ordered, adjudged and decreed by the court, that said Appellee, Odaville Yates, recover of said Edwin F. Webber, Hiram B. Cartwright and Charles W. Dudrow, sureties as aforesaid, the said sum of One Thousand and Twenty-four ($1024.00) Dollars with interest thereon, at the rate of six per cent per annum, from the 12th day of January, 1894, up to the time of judgment, together with ten per cent damages, and with costs therein of both courts, including Special Master's fee, and Appellee's Solicitor fee as in said decree specified, and that

her have execution therefor;- It is further considered and adjudged, that the record herein be remitted and said cause remanded to the District Court of the County of Santa Fe, with directions to carry into execution, the judgment of this court, and the decree of said District Court, affirmed in this court.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice

Fifth Day, Friday, July 31st 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read & approved.

574 John G. Albright, et al, Appellees, vs Texas, Santa Fe & Northern Rail= road Company, Appeal from Bex= nalls County

Now again comes William B. Childers, Esq., solicitor for said Appellees, and again comes Charles A. Spiss and Eugene A. Fisher, Solicitor for said defendants, and the court now hears the remain= der of the arguments, and not being sufficiently ad= vised in the premises, takes the same under advisement.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice

Sixth Day, Saturday August 1st 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday

The record of Yesterdays proceedings is read & approved.

It is ordered that court do now adjourn until Monday morning, at ten o'clock.

Thomas Smiths
Chief Justice.

Seventh Day, Monday, August 3rd A. D. 1896.

Court meets pursuant to adjournment.

Present as upon Saturday.

The record of Saturdays proceedings is read & approved.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smiths
Chief Justice.

Eighth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read & approved.

On motion of Charles A. Spiess Esq. It is ordered by the court that Gustave Soliqnac a member of the Bar of the First Judicial District, be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and thereupon he appears in open court, and takes the official oath prescribed by the rules of this court.

Nellie Holmes. Plaintiff in Error.
vs
655 Bartlett & Tyler. } Error to Valencia Co.

By permission of the court, - It is stipulated by the respective attorneys herein, in open court, that the record in this cause be so amended, as to show that the process was made returnable at a regular term of the District Court, instead of twenty days after service of said process on a regular return day.

Now comes Simeon Vivash, an alien, and makes application to be admitted to become a citizen of the United States; and it being made to appear to the satisfaction of the court, that, more than two years since, the said Simeon Vivash, declared on oath, before M. A. Otero, Clerk of the Fourth Judicial District Court, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to, Victoria, Queen of Great Britian, and Ireland and it being further made to appear to the satisfaction of the court, by the testimony under oath, of Stephen H. Arnold & of John Patterson, citizens of the United States, that the said Simeon Vivash, has resided within the

United States five years at least, and within the Territory of New Mexico, one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same; and the said Simeon Vivash, declaring on oath that he will support the Constitution of the United States, and that he absolitely and ditirdly renounces and abjures all allegiance and fidelity to every foreign Prince Potentate State and Sovereignty, and particularly to Victoria Queen of Great Britain and Ireland; - It is ordered by the court that the said Simeon Vivash, be and he hereby is, admitted to become a citizen of the United States.

Francisco Gonzales y Borrego, et al.
Plaintiffs in Error.

vs

618 The Territory of New Mexico.

Error to Santa Fe County.

This cause coming on to be heard upon the motion to quash the writ of error herein, the same is argued by Catron and Spiess against said motion, and by John P. Victory, Esq. in favor of said motion, and the court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice

Ninth Day, Wednesday, August 5th, 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read and approved.

Rio Grande Irrigation and Colonization Company. Plaintiff in Error.
vs
643 Charles H. Gildersleeve. } Error to Bernalillo Co.

It is ordered by the court that this cause be, and the same hereby is set down for hearing upon Tuesday, August 11th 1896.

Perfecto Padilla, Plaintiff in Error.
vs
649 The Territory of New Mexico. } Error to Rio Arriba Co.

It is ordered by the court that this cause be, and the same hereby is set down for hearing upon Friday, August 7th, 1896.

Western Homestead and Irrigation Company. Garnishee of Jesse Anthony. Plaintiff in Error.
vs
657 First National Bank of Albuquerque. } Error to Bernalillo Co.

It is ordered by the court, that this cause be, and the same hereby is set down for hearing upon Tuesday, August 11th, 1896.

The United States of America. Plaintiff in Error.
vs
660 Alonzo M. Swan. } Error to 2nd Dist.

It is ordered by the court, that this cause be, and the same hereby is set down for hearing upon Friday, August 7th, 1896.

William C. Rogers. Plaintiff in Error.
vs
656 Joseph Richards.

It is ordered by the court, that this cause be, and the same hereby is set down for hearing upon Friday, August 14th, 1896.

Francisco Gonzales y Bongo.
Plaintiffs in Error.
Vs
The Territory of New Mexico.
Error to Santa Fe Co.

618

Now comes the said parties by their said attorneys, and the motion to quash the writ of error herein having been argued and submitted to the court on a former day of the present term, the court now being sufficiently advised in the premises, announced its decision by Chief Justice Smith and Associate Justices Collier and Bantz, concurring, denying said motion.

~~Addison M. Jones et al, Appellees~~
~~Vs~~
~~Marcus Brunswick et al.~~
~~Appeal from Lincoln Co.~~

~~628~~

~~This cause coming on upon the motion of said appellants for a re hearing of this cause, filed at a former term of this court, the court being now sufficiently advised in the premises, announced its decision granting said motion by Associate Justice Bantz, Chief Justice Smith and Associate Justices Laughlin and Hamilton concurring, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court, that said motion be and the same hereby is granted. And it is further ordered and adjudged by the Court, that the judgment in this case of the District court in and for the county of Lincoln, rendered this cause be and the same hereby is reversed, and that this cause be and the same hereby is remanded to the District court for a further hearing before the master upon this subject.~~

M. W. Stanton, Appellant.
Vs
Thomas B. Catron.
Appeals from Bernalillo Co.

617

This cause having been argued by counsel and submitted to, and taken under advisement by the court at a former term: the court now being sufficiently advised in the premises announces its decision by Associate Justice Hamilton, Chief Justice Smith, and Associate Justices Laughlin and Bantz concurring, affirming the decree of the

court below, for reasons stated in the opinion of the court on file. It is therefor considered and adjudged by the court, that the decree herein of the District Court of the County of Bernalillo, whence this cause came into this court, be, and the same hereby is affirmed:- and in accordance therewith, It is further considered and adjudged by the court, that the said Appellants bill of complaint, be, and the same hereby is dismissed and that the said appellee, Thomas B. Catron go hence without day, and recover of said appellant, his costs in this behalf expended, as well in the court below as in this court, to be taxed, and that execution issue therefor.

A. M. Gentile, Appellee.

629 vs

Charles W. Kennedy, et al, Appellants. } Appeal from Bernalillo County.

This cause having been argued by counsel, and submitted to and taken under advisement by the court at a former term, the court now being sufficiently advised in the premises, announces its decision by Associate Justice Bantz, Chief Justice Smith and Associate Justice Hamilton, concurring, affirming the decree of the court below, for reasons stated in the opinion of the court on file. It is therefor considered, adjudged by the court, that the decree herein of the District Court, of the County of Bernalillo, whence this cause came into this court, be, and the same hereby is affirmed and in accordance therewith, It is ordered adjudged, and decreed by the court, that the said deed of conveyance from Mariana Garcia, then the widow of Francisco Griego, Juan Lobey and Anna Maria Garcia, his wife, Jose Amuro and Catilina Garcia, his wife, Rafael Gabaldon and Altagracia Garcia, his wife, and Trinidad Garcia, widow of Jose Chavez y Vigil, to the defendant, Margaret Grosson, bearing date the 10th day of December, 1888, and recorded in records of Bernalillo County, New Mexico, in book 13, pages 50-51-52- and 53, conveying the property described therein, to wit:- all of the following described tract or parcel of land and real-estate, situate, lying and being in the County of Bernalillo, in the Territory of New Mexico, to-wit:- the boundary of said tract of land is as follows, to-wit:- The boundary beginning at the point where the South-

side of Fijeres canon road intersects the center of Edith street or Eastern boundary of Belvidere Addition in the addition to Albuquerque New Mexico; thence north 425 Yards to a small stake; thence east paralled with the aforesaid Fijeras canon road to the east line of the Albuquerque land grant; thence south along said grant line 425 yards to the intersection of said grant line with the south side of the aforesaid Fijeras canon road; thence west with the south side of Fijeras canon road to the point of beginning. - Be and the same is herby set aside and declared null and void as against the appellee herein his heirs and assigns, in so far as it is a cloud upon the title of appellee to a portion of the land embraced in the exterior boundaries defined in said deed of conveyance described as follows, to-wit:- A certain tract or parcel of land situated in the said County of Bernalillo, and in the corporate limits of the Town of Albuquerque, bounded and described as follows:- On the west by the center line of a street of said town called and known as Edith street. If said line were extended north from the north side of Fijeras canon road 620 feet more or less to the south boundary of a tract called and known as the Rodey and Bratina tract; on the north by the said boundary line of the said Rodey and Bratina tract extended east to where the same would be intersected by the west line of a street of said town called High street if the same were extended north; on the east by said west line of High street extended; on the south by the north side of Fijeras canon road, containing about ten acres, more or less, which said tract or parcel of land is a portion of a certain tract conveyed to Rev. J. M. Gaspari by Maria Jesus Garcia and others, as appears by deed of conveyance recorded in the records of said County of Bernalillo in Book "K," at pages 100-101-102 and 103, excepting that part of said portion sold to the Sisters of Charity by the said Rev. J. M. Gaspari by deed of conveyance recorded in Bernalillo County Records in Book "I," at folio 260. be and the same is herby decreed to be perfect in the appellee, A. M. Gentile. It is further ordered, adjudged and decreed by the court, that the Appellants, Chas. W. Kennedy, Margaret Grosson

and Elliott Crosson, and all and every person or persons claiming or attempting to claim under or through them, be and they are hereby forever restrained and enjoined from exercising any acts of dominion or control over said land, the title to which is hereby decreed to be perfect in Appellee, or any portion thereof, or undertaken to sell or convey the same. It is further ordered that the appellants pay the costs of this suit in the court below, as well as in this court, to be taxed, including the Master's fee in the court below of Six hundred and twenty-five dollars to Karl A. Snyder, and a Master's fee of Fifty Dollars to S. Burkhart, and that execution issue therefor.

651 Andrew B. Laird, Plaintiff in Error.
vs
Elizabeth Upton, et al. } Error to Grant Co.

This cause coming on for hearing upon the transcript of record, assignments of error and briefs of counsel on file, is argued by W. B. Childers, Esq., for said Plaintiff in Error, and James S. Fielder, Esq., for said Defendants in Error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

650 In re:
Jose F. Jaramillo. } Habeas Corpus.

This cause coming on for hearing upon the petition of Jose F. Jaramillo, the same is argued by W. B. Childers, Esq., for said petitioner, and by Niels B. Field, Esq., against said petition, and submitted to the court, and the court not being sufficiently advised in the premises takes the same under advisement.

628 Addison M. James, et al.
vs
Marcus D. Brunswick, et al. } Appeal from Lincoln Co.

This cause having been submitted to and taken under advisement by the court, upon a former day of the present term, upon a motion for a rehearing, the court now being sufficiently advised in the premises, announces its decision

overruling said motion in all things, except as to the claim of S. B. Newcomb, and as to said claim, the court grants a rehearing, by Associate Justice Bantz, Chief Justice Smith, and Associate Justices Laughlin and Hamilton, concurring, for reasons stated in the opinion of the court on file, and in accordance therewith; It is ordered, and adjudged by the court, that the motion for a re-hearing herein be, and the same hereby is overruled, in all things except as to the claim of S. B. Newcomb, and as to said claim, this cause is remanded to the District Court, sitting within and for the County of Lincoln, New Mexico, whence this cause came into this court, with directions to have a further hearing befor the master, regarding said claim of S. B. Newcomb.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock

Thomas Smith
Chief Justice.

Tenth Day. Thursday. August 6th. 1896.

Court meets pursuant to adjournment

Present as upon Yesterday, except Hon. Thomas Smith. Chief Justice

The record of Yesterday's proceedings is read & approved.

Whereas, Guy H. Herbert. United States Commissioner for the Third Judicial District of the Territory of New Mexico. has forwarded an account for his official services for the quarter ending June 30 - A. D. 1896. duly certified by oath attached to the account, and the District Attorney has submitted said account for approval in open court, and it appearing to the satisfaction of the court that the services therein charged have been actually and necessarily performed as therein stated, and whereas, said charges appear to be just and according to law,- It is ordered that said account to the amount of Seventy & 7/100 dollars, be, and the same is hereby approved, this 6th day of August, A. D. 1896.

649 Perfecto Padilla, Plaintiff in Error.
vs
Territory of New Mexico. } Error to Rio Arriba Co.

661 Scipio Aquilar Plaintiff in Error.
vs
Territory of New Mexico. } Error to San Miguel Co.

662 Dionicio Sandoval, Plaintiff in Error.
vs
Territory of New Mexico. } Error to Bernalillo Co.

681 Jose Padilla, Plaintiff in Error.
vs
Territory of New Mexico. } Error to San Miguel Co.

It is ordered by the court, that the motions to quash the writs of error in the foregoing four causes be, and the same are hereby severally overruled.

652 Alejandro Sandoval, Plaintiff in Error.
Vs
R. B. Meyers, Treasurer. } Error to Bernalillo Co.

This cause coming on for hearing upon the transcript of record, assignments of errors and briefs of counsel on file, is argued by Niel B. Field for Plaintiff in error, and by H. W. Johnson for Defendant in error and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

384 The Territory of New Mexico.
Vs
Patrick Garmody, Appellant. } Appeal from Socorro Co.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court, upon a former day of the present term the court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Associate Justices Hamilton and Bantz concuring, and Chief Justice Smith and Associate Justice Laughlin dissenting, reversing the judgment of the court below and awarding a new trial herein, for reasons stated in the opinion of the court on file, It is therefore considered and adjudged by the court, that the judgment of the District Court for the County of Socorro, whence this cause came into this court, be, and the same hereby is reversed, and that this cause be, and the same hereby is remanded to the District Court with directions to award a new trial thereof.

631 The United States of America
Vs
Joseph Routledge, Appellant. } Appeal from 1st Dist.

This cause having been argued by counsel, and submitted to and taken under advisement by the court, upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Chief Justice Smith and Associate Justices Hamilton and Bantz concuring, Associate Justice Laughlin dissenting, reversing the judgment of the court below, and awarding a new trial herein, for reasons stated in the opinion

of the court on file. It is therfor considerd and adjudged by the court, that the judgment in this cause of the District Court in and for the First Judicial District of the Territory of New Mexico, whence this cause came into this court, be and the same herby is reversed. and that this cause be, and the same herby is remanded to the District court of the First Judicial District, with directions to grant a new trial thereof.

653

W. A. Maxwell. Plaintiff in Error.
vs
James W. Tufts. } Error to Bernalillo Co.

This cause coming on for hearing upon the transcript of record, assignment of error, and briefs of counsel filed herein, is argued by W. B. Childers, Esq. for Plaintiff in error, and by S. W. Johnson, Esq., for Defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises takes the same under advisement

It is ordered that court do now adjourn until to-morrow morning at ten o'clock

Thomas H. Smith
Chief Justice.

Eleventh Day, Friday, August 7th 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday, also Hon. Thomas Smith, Chief Justice.

The record of Yesterday's proceedings is read and approved.

566 Adolph Strauss, Plaintiff in Error,
Vs
Herbert H. Smith, Defendant in Error,
} Error to San Miguel Co.

This cause having been argued by counsel and submitted to, and taken under advisement by the court upon a former term of this court; the court now being sufficiently advised in the premises, announces its decision by Associate Justice Bant, affirming the judgment of the court below, Chief Justice Smith, and Associate Justices Laughlin, Collier and Hamilton, concurring, for reasons stated in the opinion of the court on file, and in accordance therewith. It is considered and adjudged by the court, that the judgment in this cause of the District court, in and for the county of San Miguel, whence this cause came into this court, be, and the same hereby is affirmed. and that the said defendant in error, Herbert H. Smith, recover of and from the said plaintiff in error Adolph Strauss, the sum of One Hundred Dollars damages, assessed value of said horse, together with the further sum of One Hundred Dollars, for the unlawful detention of said property, with interest on the last mentioned sum at the rate of six per cent per annum from the 4th day of May 1893, together with the costs in the court below, as in this court, to be taxed; and it appearing to the court that Fanny Coleman, and A. Davis are sureties on the replevin bond of said Plaintiff in error, - It is ordered by the court that the said defendant in error Herbert H. Smith do have and recover of said Fanny Coleman and A. Davis, sureties as aforesaid, the said sum of One hundred dollars, assessed value of said horse, together with the further sum of One hundred dollars for the unlawful detention of said property, with interest on the last mentioned sum, at the rate.

of six percent. per annum, from the 4th day of May 1893. together with his costs in this behalf expended in the courts below as in this court, to be taxed, and that execution issue therefor.

649 Perfecto Padilla, Plaintiff in Error. } Error to Rio Arriba Co.
Vs
The Territory of New Mexico.

This cause coming on for hearing upon the transcript of record, assignments of error, and briefs of counsel on file, is argued by Charles A. Spiess, Esq., for Plaintiff in Error, and by John P. Victory, Esq., Solicitor General for said Defendant in Error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

655 Nellie Holmes, Plaintiff in Error. } Error to Valencia Co.
Vs
Bartlett and Tyler.

This cause coming on for hearing, upon the transcript of record, assignments of error, and briefs of counsel on file: is argued by Neill B. Field, Esq. for Plaintiff in Error, and by W. B. Childers, Esq. for Defendants in Error, and submitted to the court; and the court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice &c.

Twelfth Day, Saturday, August 8th, 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read & approved

It is ordered that court do now adjourn until Monday morning at ten o'clock.

Thomas Smith
Chief Justice &c

Thirteenth Day, Saturday, August 10th, A. D. 1896.

Court meets pursuant to adjournment

Present as upon Saturday.

The record of Saturdays proceedings is read & approved.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice &c

Fourteenth Day, Tuesday, August 11th, 1896.

Court meets pursuant to adjournment

Present as upon Yesterday.

The record of Yesterday's proceedings is read and approved.

Whereas, Louis S. Marshall, United States Commissioner for the Third Judicial District of New Mexico, has forwarded an account for his official services for the quarter ending June 30th A. D. 1896. duly certified by oath, attached to the account, and the District Attorney has submitted said account for approval in open court, and it appearing to the satisfaction of the court, that the services therein charged have been actually and necessarily performed as therein stated; and whereas, said charges appear to be just and according to law, It is ordered that said account, amounting to One hundred and forty-seven and 90/100 dollars, be and the same is hereby approved, this 11th day of August, A. D. 1896.

Scipio Salazar. Plaintiff in Error.
661 vs
The Territory of New Mexico. } Error to San Miguel Co.

It is ordered by the court that this cause be and the same hereby is set down for hearing on Wednesday, August, 19th, 1896.

The Territory of New Mexico.
686 vs
Cecilio Rodriguez. } Appeals from Dona Ana Co.
Appellant.

It is ordered by the court, that this cause be and the same hereby is set down for hearing upon Friday, August 14th, 1896.

Francis E. Erwin, Plaintiff in Error.
606 vs
William Carmichael, et al. } Error to Socorro Co.

This cause coming on for hearing upon the motion of said Defendants in Error, heretofore filed herein, for a rehearing of said cause, the

cause is argued by H. L. Pickett Esq., attorney for said defendants in error and by T. B. Catron Esq. attorney for said plaintiff in error, and submitted to the court, and the court not being sufficiently advised in the premisses, takes the same under advisement.

It is ordered by the court that Genevo Sandoval be and he hereby is appointed bailiff to the court, and he appears in open court and is sworn as such.

658 Ulysses F. Curran, Plaintiff in Error,
Vs
William W. Kendall Boot & Shoe Company. } Error to Santa Fe County.

This cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel on file, is argued by E. L. Bartlett, Esq., for Plaintiff in Error, and by E. A. Fiske, Esq., for Defendant in Error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

670 The United States Trust Company of New York,
Vs
Atlantic & Pacific R. R. Co., et al. In the matter of the intervening petition of the Territory of New Mexico. Appellee.
The United States Trust Company of New York, and C. W. Smith, Receiver of the property of the Atlantic & Pacific R. R. Co., Appellants. } Appeal from Bernalillo County.

It is ordered by the court, that this cause be and the same hereby is set down for hearing at the foot of the docket upon Tuesday, August 18th, 1896.

629 A. M. Gentile, Appellee,
Vs
Charles W. Kennedy, et als. Appellants. } Appeal from Bernalillo Co.

Now comes said Appellee by his attorney T. B. Catron Esq., and shows to the court here, that the clerk of this court inadvertently omitted entering the judgment against the sureties on the appeal bond of said Appellants.

in this cause, against whom said judgment should have been entered together with said appellants in said cause, which said judgment was entered on the ninth day of the present term. And the said appellee by his said Attorney moves the court to have said judgment entered against the sureties on the said appeals bond nunc pro tunc as of the said ninth day of this term the date of the entry of said Judgment against the said appellants. And the court being now sufficiently advised in the premises, grants said motion. And it appearing to the court that C. B. Ames and N. O. Stamm, are the sureties on the said appeals bond of said appellants. It is therefor considered and adjudged by the court, that the said appellee A. W. Gentis, do have and recover of and from Charles W. Kennedy, Elliott Grosson and Margaret Grosson as principals, and C. B. Ames and N. O. Stamm sureties as aforesaid the sum of Seven hundred and twenty-eight dollars and 85/100. costs of said suit and that Execution issue therefor said costs having accrued as follows to-wit. In the District Court of the 2nd District the sum of $25.40 due clerk of said District, $6.25 cts the amount due Karl A. Snyder, as special master, and the sum of $5.00 cts due S. Burkhart as special master. The amount due the clerk of the 1st Judicial District being $14.35 and the amount due the clerk of the Supreme Court being $14.50, making the amount above mentioned.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice.

Fifteenth Day. Wednesday. August. 12th, 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read and approved.

The United States of America.
Plaintiff in Error.

660 Vs. Error to 2nd District.

Alonzo M. Swan. et al.

This cause coming on for hearing upon the transcript of record, assignment of errors and brief of counsel on file, is argued by Geo. P. Money, Assistant United States Attorney for Plaintiff in Error, and by E. W. Dobson Esq. for defendant in error, and submitted to the court, and the court not be sufficiently advised in the premises takes the same under advisement.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice &c

Sixteenth Day, Thursday, August 13th. 1896.

Court meets pursuant to adjournment

Present as upon Yesterday.

The record of Yesterday's proceedings is read & approved.

663 Mary J. Willey, Plaintiff in Error.
Vs
Berthold Renner, Defendant in Error. } Error to Bernalillo Co.

This cause coming on for hearing upon the transcript of record, assignments of errors and briefs of counsel on file, is argued by Niles B. Field, Esq. for plaintiff in error, and by B. F. Adams, Esq. for defendant in error, and submitted to the Court, and the court not being sufficiently advised in the premises takes the same under advisement.

On motion of H. L. Pickett, Esq. It is ordered by the court that Arthur H. Harlee, a member 693 of the bar of the Third Judicial District, be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and thereupon he appears in open court and takes the official oath prescribed by the rules of this court.

680 W. W. Flournoy, et al, Appellants.
Vs
Bullock, Baker & Co. and Geo. W. Champion. } Appeal from Bernalillo County.

Now comes W. B. Childers, Esq., attorney for said appellants, and says to the court here, that the first demurrer, and the order of the court sustaining the same, was by inadvertence of the clerk of the District Court of the Second Judicial District, whence this cause came into this court omitted from the records; and moves the court that a certified copy of said demurrer and order may be filed herein, and be considered by this court a part of the records, and the court being sufficiently advised in the premises grants said motion.

662 Dionicio Sandoval. Plaintiff in Error.
Vs
The Territory of New Mexico. } Error to Bernalillo County.

This cause coming on for hearing upon the transcript of record, assignments of error and briefs of counsel on file, is argued by Ed. L. Medler, Esq. for plaintiff in error, and by John. P. Victory, Esq. Solicitor Generas for the Territory of New Mexico, for defendant in error, and submitted to the court, not being sufficiently advised in the premises takes the cause under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice &c

Seventeenth Day, Friday, August 14th A. D. 1896

Seventeenth Day, Friday August 14th, 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read & approved.

Francisco Gonzales y Borrego, et al.
Plaintiffs in Error.

618 Vs

The Territory of New Mexico.
Defendant in Error.

Error to Santa Fe County.

This cause coming on for hearing upon the transcript of record, assignments of error and briefs of counsel on file, is argued by Catron and Spiess for Plaintiffs in Error, and by John P. Victory, Esq. Solicitor General for New Mexico, and by H. L. Warren and Jacob H. Crist, Esqrs. for Defendant in Error, and hear a portion of the argument

It is ordered that court do now adjourn until to-morrow morning at ten o'clock

Thomas Smith
Chief Justice

Eighteenth Day, Saturday August 15th. 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read & approved.

It is ordered that court do now ad-
journ until Monday morning at ten o'clock.

Thomas Smith
Chief Justice.

Nineteenth Day, Monday, August 17th. 1896.

Court meets pursuant to adjournment.

Present as upon Saturday.

The record of Saturdays proceedings is read & approved.

The Territory of New Mexico.
Appellee.
Vs
671 Jose Chavez y Chavez, Appellant. } Appeals from San Miguel County.

By consent of the parties interested herein. It is ordered by the court, that this cause be, and the same hereby is set for hearing upon Wednesday, August 19th. 1896.

Francisco Gonzales y Bongo. et als
Plaintiffs in Error.
Vs
618 The Territory of New Mexico. } Error to Santa Fe. Co.

Now comes said parties by their respective attorneys, and the court hears further argument in said cause.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice.

Twentieth Day, Tuesday August 18th, 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read and approved.

George W. Middleton,
Plaintiff in Error,
667 Vs
A. M. Hendry,
Error to Santa Fe County.

On motion of the Plaintiff in Error by his attorney H. L. Warren, Esq. - It is ordered by the court that this cause be, and the same hereby is continued until the next term of this court.

W. A. Maxwell, Receiver, etc.
Plaintiff in Error,
653 Vs
James W. Tufts,
Defendant in Error.
Error to Bernalillo County.

This cause having been argued by counsel and submitted to, and taken under adviserment by the court on a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Baute, affirming the judgment of the court below, Associate Justices Hamilton and Laughlin concurring for reasons stated in the opinion of the court on file. - It is therefore considered and adjudged by the court, that the judgment herein, of the District Court of the county of Bernalillo, whence this cause came into this court be, and the same hereby is affirmed, and in accordance therewith, that the said Defendant in Error, James W. Tufts, is entitled to the possession, and that he do have the possession of the following goods and chattels, to-wit:- One Kneeshaas cherry top soda-fountain, manufactured by James W. Tufts for Thomas H. Burgess & Son, together with one generator, five steel tanks, and all fictures and appurtenances connected therewith; or that he do have and recover from the said Plaintiff in Error W. A. Maxwell, Receiver, etc. one thousand dollars, together with interest on said amount from the 26th day of October, 1895,

and the said sum of forty-seven 57/100 dollars the amount of the dandages so found and assessed for the unlawful detention of said property together with the costs in the court below as well as in this court, to be taxed. and that execution issue therfor.

The United States of America.
Plaintiff in Error.
Vs
660. Alonzo M. Swan. et al,
Defendants in Error.
} Error to 2nd District Court.

This cause having been argued by counsel and submitted to, and taken under advisement by the court, upon a former day of the present term. the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bantz affirming the judgment of the court below. Chief Justice Smith and Associate Justices. Hamilton and Laughlin. concurring. for reasons stated in the opinion of the court on file. It is therfore considered and adjudged by the court that the judgment of the District Court of the Second Judicial District, whence this cause came into this court. be and the same hereby is affirmed, and in accordance therewith, that the said Plaintiff in Error, The United States of America do have and recover from the said Defendants in Error, Alonzo M. Swan, Henry Lockhart, as administrator of the estate of Lloyd H. Hoper, deceased, and R. M. Johnson the sum of Five hundred and thirty-nine dollars and twenty-three cents, the amount of the damages so assessed, together with the costs in the court below as well as the costs in this court, to be taxed, and that execution issue therfor. It is ordered that this judgment bear interest from March 19th. 1896. at the rate of 6 per cent per annum

Francisco Gonzales Y. Borrego et al.
Plaintiffs in Error
618 Vs
The Territory of New Mexico.
Defendant in Error.
} Error to Santa Fe Co.

Now again comes said parties by their respective attorneys, and the court hears the remainder of the arguments, and

Twentieth Day. Tuesday August 18th A. D. 1896.

the same is submitted to the court, and the court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

W. Thomas Smith
Chief Justice.

Twenty-First Day, Wednesday August 19th, 1896.

Court mets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read and approved.

582 Doloritas Martin de Cordova, et al, Appellants.
Vs
Henry Korte et al, Appellees. } Appeal from San Miguel County.

This cause having been submitted to the court upon a motion for a rehearing, heretofore filed herein, the court being now sufficiently advised in the premises, doth order and adjudged, that said motion be, and the same hereby is denied.

611 Abraham D. Coon, Appellee,
Vs
Bosque Bonito Land & Cattle Co, Albuquerque National Bank, Appellants, and Charles A. Robinson, Sheriff of Socorro County, Trustee. } Appeal from Bernalillo Co.

This cause having been submitted to the court, upon a motion for a rehearing, heretofore filed herein, the court being now sufficiently advised in the premises, doth order and adjudge that the said motion be and the same hereby is denied.

623 United States of America.
Vs.
Alberto Viera, Appellant. } Appeal from 2nd District.

This cause having been submitted to the court upon a motion for a rehearing, heretofore filed herein, the court being now sufficiently advised in the premises, doth order and adjudge that the said motion be, and the same hereby is denied.

629 A. M. Gentile, Appellee.
Vs
Charles W. Kennedy, et al, Appellants. } Appeal from Bernalillo County.

This cause having been submitted to the court, upon a motion for a rehearing, heretofore filed.

herein. the court being now sufficiently advised in the premises - doth order and adjudge, that the said motion be and the same is hereby denied.

661 Scipio Aguilar. Plaintiff in Error. } Error to San Miguel Co.
Vs
The Territory of New Mexico.

This cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel, & is argued by Miguel Salazar, Esq. for plaintiff in error, and by John P. Victory, Esq. Solicitor General for the Territory of New Mexico, for defendant in Error, and submitted to the court, and the court not being sufficiently advised in the premises takes the same under advisement.

671 The Territory of New Mexico. Appellee. } Appeal from San
Vs Miguel County.
Jose Chavez y Chavez. Appellant.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file is argued by John P. Victory, Esq. Solicitor General for New Mexico for said Appellee, and by Messrs Veeder & Veeder for said Appellant, and the court heard a portion of the arguments.

It is ordered that court do now adjourn until to-morrow at ten o'clock.

Thomas Smith
Chief Justice

Twenty-Second Day. Thursday. August 20th. 1896.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read and approved.

On motion of Niles B. Field, Esq. a member of this bar, It is ordered by the court that C. N. Sterry a member of the bar of the Second Judicial District, be and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court, and takes the official oath prescribed by the rules of this court.

The Territory of New Mexico.
Appellee.
Vs
671 Jose Chavez y. Chavez, Appellant. } Appeal from San Miguel Co.

Now again comes said parties, by their said attorneys, and the court hears further arguments herein.

The United States Trust Company of New York.
Vs
670 Atlantic and Pacific R. R. Co. et al. In the matter of the intervening petition of the Territory of New Mexico. Appellee. } Appeal from Bernalillo Co.
The United States Trust Co., of New York, and C. W. Smith, Receiver of the property of the Atlantic and Pacific R. R. Co., Appellants.

This cause coming on for hearing upon the transcript of record, assignments of errors, and briefs of counsel on file, is argued by C. N. Sterry, Esq., for said Appellants, and by F. W. Clancy, and Thomas N. Dickerson Esqrs, and John P. Victory Esq., for Appellee, and the court hears a portion of the arguments.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice.

Twenty-Third Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read & approved.

651 Andrew B. Laird, Plaintiff in Error.
Vs
Elizabeth C. Upton, et al, Defendants in Error. } Error to Grant County.

This cause having been argued by counsel and submitted to, and taken under advisement on a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Chief Justice Smith & Associate Justice Laughlin concurring, affirming the judgment of this court below for reasons stated in the opinion of the court on file. It is therefore considered & adjudged by the Court that the judgment therein of the District Court of the county of Grant, whence this cause came into this court, be and the same hereby is affirmed; and in accordance therewith that the said Defendants in error do have and recover the property described in the writ of replevin herein, as follows, to-wit:- three hundred & sixty head of goats, having the following marks and brands, to-wit:- split both ears & some no ear mark or brand; two hundred yearling she goats some "O" on jaw, right side & "O" & "O" on jaw, one hundred and seventy-five head of she goats, ear marked thus ∞ ∞ ⊂ six billys, split both ears, and ten in various marks, all situated in the county of Grant. It is further ordered & considered by the court that the said Defendants in error Elizabeth C. Upton et al do have & recover of and from said Plaintiff in Error Andrew B. Laird, the said sum of Five Hundred Dollars ($500.00) her damages assessed, together with interest on said amount from 29th day of November, 1895, and her costs in the court below as well as in this court, to be taxed, and that execution issue therefor. And it appearing to the court that H. D. Gilbert & Adolf Wittel are sureties on the bond of said Plaintiff in Error. It is ordered & adjudged

by the court, that said Defendants in Error Elizabeth C. Upton, et al, do have and recover of and from said H. O. Gilbert and Adolf Witges Curtiss as aforesaid, the said sum of Five Hundred Dollars damages with interest from the 29th day of November 1895 together with her costs expended in the court below, as well as in this court, to be taxed, and that execution issue therefor.

671 Territory of New Mexico, Appellee.
Vs
Jose Chavez y Chavez, Appellant. } Appeal from San Miguel County

This cause coming on for further hearing is argued by said attorneys and submitted to the court and the court not being sufficiently advised in the premises takes the same under advisement.

670 The United States Trust Company of New York,
Vs
Atlantic and Pacific R. R. Co. et al, In the matter of the intervening petition of the Territory of New Mexico, - Appellee.
The United States Trust Co. of New York, and C. W. Smith, Receiver of the property of the Atlantic and Pacific R. R. Co. Appellants. } Appeal from Bernalillo County.

This cause coming on for further hearing, is argued by said attorneys and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

681 Jose Padilla, Appellant,
Vs
The Territory of New Mexico. } Appeal from San Miguel.

This cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel, is partially argued by L. C. Fort, Esq. for said Appellant.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thos. A. Smith
Chief Justice.

Twenty-Fourth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read & approved.

681 Jose Padilla, Appellant. } Appeal from San
Vs } Miguel County.
The Territory of New Mexico. }

This cause coming on for further hearing is argued by O. A. Larrazolo, Esq. in behalf of Plaintiff in Error, and John P. Victory, Esq., Solicitor General, for Defendant in Error, and submitted to the court, & the court not being sufficiently advised in the premises takes the same under advisement

It is ordered that court do now adjourn until Monday morning at ten o'clock.

Thomas Smith
Chief Justice.

Twenty-Fifth Day.

Court meets pursuant to adjournment.

Present as upon Saturday.

The record of Saturday's proceedings is read & approved.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock

Thomas Smith
Chief Justice

Twenty-sixth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read and approved.

582 Dolorita Martin de Cordova, et al.
Vs
Henry Korte, et al

Appellants. } Appeal from San
Appellees. } Miguel Co.

Now, on motion of Long and Fort, Esqrs. and Eugene A. Fiske, Esq., solicitor for said appellees, which said motion was opposed by T. B. Catron, Esq., solicitor for appellants, - and it appearing to the court that the judgment and decree of this court, in this cause, was entered of record on the 24th day of August, A. D. 1895. by mistake, and while a motion of said appellees for a re-hearing of said cause by this court was duly pending herein, which said motion was not disposed of until the present term of this court, - and the court now being sufficiently advised in the premises, - It is ordered and considered by the court, that the said judgment and decree of this court in said cause, so entered on the said 24th day of August, A. D. 1895, be and the same and the record thereof is vacated and set aside. - And it is further ordered and considered by the court, that judgment of this court, in accordance with the opinion of this court heretofore filed herein, be entered at the present term of this court, and in accordance therewith. - It is considered and adjudged by the court, that the decree of the District court in and for the County of San Miguel, whence this cause came into this court, be, and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court, with directions to enter a decree in conformity with the findings and recommendations of the master, and for such further proceedings as the nature of the case may require: - And it is further considered and adjudged by the court, that said appellants do have and recover of said appellees their costs in this behalf expended in the court below as well as in this

court to be taxed, and that questions were
stricken

The Factory of Pen Mutual Appellee
vs
The Commissioners Appellant, } Appeal from Circuit Co.

This cause coming on for hearing upon the transcript of record, assignment of errors and brief of counsel on file, is argued by R. D. Saunders Esq. for said Appellant, and John C Bretzy Esq. Solicitor General for said State, and submitted to the court, and the court not being sufficiently advised in the premises take the case under advisement.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief justice

Twenty-seventh Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read & approved.

Ulysses F. Curran.
Plaintiff in Error.
Vs.
658 William W. Kendall Boot and Shoe Company, Defendant in Error. } Error to Santa Fe County.

This cause having been argued by counsel, and submitted to and taken under advisement by the court at a former day of this term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Chief Justice Smith, and Associate Justices Bantz and Hamilton concurring, affirming the judgment of the court below, for reasons stated in the opinion of the court on file, It is therefore considered and adjudged by the court that the judgment of the District Court of the county of Santa Fe, whence this cause came into this court be and the same hereby is affirmed; and in accordance therewith that the said Defendant in Error William W. Kendall Boot and Shoe Company do have and recover from the said Plaintiff in Error Ulysses F. Curran its damages assessed, amounting to the sum of Six hundred and sixty-four dollars and eighty-four cents, together with the costs in the court below, as well as in this court, to be taxed, and that execution issue therefor. And it is further considered by the court, that the property heretofore attached, in this cause, under the writ of attachment heretofore issued in this cause, be sold, and the proceeds thereof applied to the satisfaction of this judgment.

Charles Probst, Plaintiff in Error.
668 Vs
The Trustees of the Board of Domestic Missions of the General Assembly of the Presbyterian Church in the United States. } Error to Santa Fe Co.

This cause coming on to be heard on the motion of defendant in error, to affirm the judgment of the lower court in this above entitled cause, and the same being argued on the part of the said defendant in error, as well as upon the part of said plaintiff in error, and the court being sufficiently advised in the premises denies said motion.

685 The Territory of New Mexico, Appellee, vs John Chamberlain, Appellant } Appeal from Lincoln Co.

Now comes the Appellant by his said attorney, and moves the court to strike from the record in this cause, the affidavit of H. M. Dougherty, filed herein on the day of July, 1896, and assigns for cause of said motion, 1st. that said affidavit was filed without notice to Appellant, 2nd that said affidavit was filed after the adjournment of court at which said Appellant was convicted, and 3rd that said affidavit was filed without leave of the court, and 4th that said affidavit has been by inadvertence copied into the record of this cause, and the court takes the same under advisement

668 Charles Probst, Plaintiff in Error vs The Trustees of the Board of Domestic Missions of the General Assembly of the Presbyterian Church in the U. S. } Error to Santa Fe Co.

It is ordered by the court, that the Plaintiff in Error file his transcript and briefs herein on or before Saturday, August 29th, 1896.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice.

Twenty-eighth Day. Thursday, August 27th A. D. 1896

Twenty-eighth day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read & approved.

Rule.

In re, United States Commissioners of the District Courts.

It Is Herby Ordered by the court, that the following rule be, and herby is adopted:-

United States Commissioners of the Territory of New Mexico, sitting by virtue of appointment by the Judges of the several District Courts of this Territory as committing magistrates in the trial of offenders against the laws of the United States, shall transmit to the clerk of the District Courts by which they may be or have been appointed, on or before the first day of each term of said courts all the original papers, transcripts and transcripts of testimony made in the hearing of causes before them, and no Commissioner shall except upon the direction of the Attorney for the United States, take the recognizance of any witness to appear before the grand jury of said courts, in cases where the writen testimony of such witness shall have been taken; and such testimony, when so taken & transcribed, shall be certified by the Commissioner taking the same to be all the testimony delivered upon the trial of the cause in which the same is taken. It Is Further Ordered, that the Clerk of this court, transmit a certified copy of this order to the clerks of each of the district courts in this Territory, and that the said clerks of the district courts shall spread the same upon the records of the respective districts courts, and shall transmit a copy of the same to each United States Commissioner within their respective districts.

Now comes John M Hartley, an alien, and makes application to be admitted to become a citizen of the United States; and it being made to appear to the satisfaction of the court, by the

testimony, under oath, Wm H. Coleman and J. G. Schurman citizens of the United States, that the said John M. Hartley, resided in the United States three years next preceding his arriving at the age of twenty-one years, and has continued to reside therein to the time of making this application, and that he has resided more than five years within the United States, including the three years of his minority, and within the Territory of New Mexico, one year at least; and that during that time he has behaved as a man of good moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same, and the said John M. Hartley, declaring on oath, that it is bona fide his intention to become a citizen of the United States, and to forever renounce all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty, and particularly to Victoria Queen of Great Britian and Ireland; and the said John M. Hartley, further declaring on oath, and proving to the satisfaction of the court, that for two years next preceding this application, it has been his bona fide intention to become a citizen of the United States; and the said John M. Hartley declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty, and particularly to Victoria Queen of Great Britian and Ireland. - It is ordered by the court, that the said John M. Hartley be, and he is, admitted to become a citizen of the United States.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice

Twenty-Ninth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday

The record of Yesterdays proceedings is read & approved.

679 United States of America. Appellee.
Vs
Samuel L. Bachelor. Appellant. } Appeal from 1st Judicial District.

It is ordered by the court, that this cause be, and the same hereby is, continued until the adjourn term, to be hereafter taken by this court.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smiley
Chief Justice.

Thirtieth Day, Saturday August 29th A. D. 1696.

Thirtieth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read & approved.

It is ordered that court do now adjourn until Monday morning at ten o'clock.

Thomas Smith
Chief Justice.

Thirty-First Day.

Court meets pursuant to adjournment.

Present as upon Saturday.

The record of Saturdays proceedings is read and approved.

It is ordered that court do now adjourn until to-morrow morning at ten o'clock.

Thomas Smith
Chief Justice

Thirty-second day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read and approved.

649 Perfecto Padilla, Plaintiff in Error,
vs
The Territory of New Mexico. } Error to Rio Arriba Co

This cause having been argued by counsel and submitted to and taken under advisement by the court on a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, affirming the judgment and sentence of the court below in this cause. Chief Justice Smith and Associate Justices Hamilton and Bantz concurring for reasons stated in the opinion of the court on file; - It is therefore considered and adjudged by the court, that the judgment and sentence in this cause of the District Court in and for the County of Rio Arriba, whence this cause came into this court, be and the same hereby is affirmed; and it appearing that the date fixed by the District Court for the execution of said defendant has passed; It is now further considered and adjudged by the court, that the said Perfecto Padilla, be, and he hereby is committed to the custody of the Sheriff of the County of Rio Arriba, New Mexico, to be by him safely and securely confined in the common jail of said County, until Thursday the twenty-fourth day of September 1896. and on said day, to be thence conveyed to some suitable spot within the County of Rio Arriba, and between the hours of six o'clock in the morning and four o'clock in the afternoon of said day, the said Perfecto Padilla, to be by said Sheriff hanged by the neck until he be dead; and it is further considered and adjudged by the court, that a duly certified copy of this judgment and sentence, attested by the clerk of this court, shall be the warrant, to the said Sheriff for the due execution thereof.

662 Dionicio Sandoval, Plaintiff in Error
vs
The Territory of New Mexico. } Error to Bernalillo County.

This cause having been argued by counsel and submitted to and taken under advisement by the court on a former day of the present term, the court being now sufficiently advised in the premises announced its decision by Associate Justice Laughlin affirming the judgment and sentence of the court below in this cause, Chief Justice Smith, and Associate Justices Hamilton and Bantz, concurring, for reasons stated in the opinion of the court on file. It is therefor considered and adjudged by the court that the judgment and sentence in this cause of the District Court in and for the County of Bernalillo, whence this cause came into this court, be and the same hereby is affirmed, and it appearing that the date fixed by said District Court, for the execution of said defendant has passed. It is now further ordered and adjudged by the court that the said Dionicio Sandoval be and he hereby is committed to the custody of the Sheriff of said County of Bernalillo, New Mexico, to be by him safely and securely confined in the common jail of said County, until Thursday the twenty-fourth day of September, 1896, and on said day to be thence conveyed by said Sheriff, to some suitable spot within said County of Bernalillo, and between the hours of six o'clock in the forenoon and four o'clock in the afternoon of said day, the said Dionicio Sandoval to be by said Sheriff hanged by the neck until he be dead, and it is further considered and adjudged by the court, that a duly certified copy of this judgment and sentence, attested by the clerk of this court, shall be the warrant, to the said Sheriff for the due execution thereof.

Francisco Gonzales y Borrego, et als.
Plaintiffs in Error.
vs
The Territory of New Mexico. } Error to Santa Fe Co.

618 This cause having been argued by counsel and submitted to and taken under advisement at a former day of the present

term, the court being now sufficiently advised in the premises announces its decision by Chief Justice Smith affirming the judgment and sentence of the court below in this cause. Associate Justices Collier and Bantz, concurring, for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment and sentence in this cause of the District Court, in and for the county of Santa Fe, whence this cause came into this court, be and the same hereby is affirmed; And it appearing that the date fixed by said District Court for the execution of said defendants has passed. It is now further considered and adjudged by the court that the said Francisco Gonzales y Bonigo, Antonio Gonzales y Bonigo, Luciano Alarid and Patricio Valencia, be and they and each of them hereby are committed to the custody of the Sheriff of the County of Santa Fe, New Mexico, to be by him safely and securely confined in the common jail of said County of Santa Fe until Thursday the twenty-fourth day of September, 1896, and on said day to be thence conveyed to some suitable spot in said County of Santa Fe, and between the hours of six o'clock in the forenoon and four o'clock in the afternoon of said day, the said Francisco Gonzales y Bonigo, Antonio Gonzales y Bonigo, Luciano Alarid and Patricio Valencia, and they and each of them to be by said Sheriff hanged by the neck until they and each of them be dead, and it is further considered and adjudged by the court that a duly certified copy of this judgment and sentence, attested by the clerk of this court, shall be the warrant to said Sheriff for the due execution thereof.

Francisco Gonzales y Bonigo et al.
Plaintiffs in Error.
vs
The Territory of New Mexico.
} Error to Santa Fe County.

L18

This cause coming on for hearing upon the motion of ~~the motion~~ of John P. Victory Solicitor General for the Territory of New Mexico, to quash the writ of error herein for reasons stated in his motion on file, the court now

bring sufficiently advised in the premises, announces its decision by Chief Justice Smith, overruling said motion, Associate Justices Collier and Baldwin concurring, for reasons stated in the opinion of the court on file, It is therefore considered and adjudged by the court, that the motion herein to quash the writ of error be and the same hereby is overruled.

699

The Territory of New Mexico, Appellee. }
Vs } Appeal from
Rosario Ring, Appellant. } Rio Arriba Co.

This cause having been submitted to and taken under advisement by the court, upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith, affirming the judgment and sentence of the court below. Associate Justices ~~Laughlin~~, Collier, Baldwin and Hamilton, concurring and in accordance therewith, It is considered and adjudged by the court, that the judgment and sentence of the District Court in and for the County of Rio Arriba, whence this cause came into this court be and the same hereby is affirmed. And it appearing that the date fixed by said District Court for the execution of said defendant, has passed; It is now further considered and adjudged by the court that the said Rosario Ring be and he hereby is committed to the custody of the Sheriff of the County of Rio Arriba, New Mexico, to be by him safely and securely confined in the common jail of said County of Rio Arriba until Thursday, the twenty-fourth day of September, 1896. and on said day to be thence conveyed to some suitable spot in said county of Rio Arriba and between the hours of six o'clock in the forenoon and four o'clock in the afternoon of said day, the said Rosario Ring to be by said Sheriff hanged by the neck until he be dead; and it is further considered and adjudged by the court, that a duly certified copy of this judgment and sentence attested by the clerk of this court shall be the warrant to said Sheriff for the due execution thereof.

683 The Territory of New Mexico, Appellee, vs Antonio Gonzales, Appellant, } Appeal from Chaves County.

This cause having been submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises announces its decision by Chief Justice Smith, affirming the judgment of the Court below, Associate Justices Laughlin and Collier concurring. And in accordance therewith, It is considered and adjudged by the court, that the judgment and sentence of the District Court in and for the County of Chaves wherein this cause came into this court, be and the same hereby is affirmed; - And it appearing to the court that the date fixed by the said District Court for the execution of said defendant has passed. - It is now further considered and adjudged by the court, that the said Antonio Gonzales, be, and he hereby is committed to the custody of the Sheriff of the County of Chaves, New Mexico, to be by him safely and securely confined in the common jail of the said County of Chaves, until Thursday, the twenty-fourth day of September, 1896. and on said day to be thence conveyed to some suitable spot within the County of Chaves, and between the hours of six o'clock in the forenoon and four o'clock in the afternoon of said day, the said Antonio Gonzales, to be by said Sheriff hanged by the neck until he be dead; - And it is further considered and adjudged by the court, that a duly certified copy of this judgment and sentence, attested by the clerk of this court, shall be the warrant, to the said Sheriff for the due execution thereof.

684 The Territory of New Mexico, Appellee, vs Eugenio Aragon, Appellant, } Appeal from Chaves County.

This cause having been submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Laughlin, affirming the judgment and sentence

of the court below in this cause. Chief Justice Smith and Associate Justice Collier, Hamilton ~~and Laughlin~~, concurring, and in accordance therewith, It is considered and adjudged by the court, that the judgment and sentence of the District Court, within and for the County of Chaves, whence this cause came into this court, be and the same herby is affirmed.- And it appearing to the court that the date fixed by the said District Court for the execution of said defendant has passed.- It is now further considered and adjudged by the court, that the said Eugenio Aragon be and he herby is committed to the custody of the Sheriff of the County of Chaves, New Mexico, to be by him safely and securely confined in the common jail in and for the County of Chaves, until Thursday, the tlonty-fourth day of September, 1896, and on said day to be thence conveyed, to some suitable spot within the County of Chaves, and between the hours of six o'clock in the forenoon and four o'clock in the afternoon of said day, the said Eugenio Aragon, to be by said Sheriff hanged by the neck until he be dead;- And it is further considered and adjudged by the court, that a duly certified copy of this judgment and sentence, attested by the Clerk of this court, shall be the warrant to the said Sheriff for the due execution thereof.

The Territory of New Mexico, Appellee
vs
671 Josi Chavez y Chavez, Appellant. } Appeal from San Miguel Co.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bantz, reversing the judgment of the court below and remanding said cause for a new trial, Associate Justices Collier, Hamilton and Laughlin, concuring, for reasons stated in the opinion of the court on file; It is therefore considered and adjudged by the court, that the judgment in this cause of the District Court, in and for the County of San Miguel, whence this cause came into this court, be and the

cause is hereby reversed, and this cause remanded to the District Court, with directions to grant a new trial thereof.

681 The Territory of New Mexico, Appellee. } Appeal from San
Vs } Miguel County.
Jose Padilla, Appellant.

This cause having been argued by counsel, and submitted to and taken under advisement by the court upon a former day of the present term, now being sufficiently advised in the premises, announces its decision by Associate Justice Collier, Associate Justice Bantz, concurring, reversing the judgment of the court below and remanding this cause for a new trial, for reasons stated in the opinion of the court on file, Associate Justice Laughlin, dissenting; - It is therefore considered and adjudged by the court, that the judgment of the District Court in and for the county of San Miguel, whence this cause came into this court be, and the same is hereby reversed, and this cause remanded to the District Court of the said County of San Miguel, with directions to grant a new trial thereof.

The Territory of New Mexico, Appellee. } Appeal from
682 Vs } Eddy County
Agustin Lerma. Appellant.

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Laughlin, Associate Justice Collier, ~~dissenting~~ Bantz, concurring, reversing the judgment of the court below, and remanding said cause for a new trial, for reasons stated in the opinion of the court on file, It is therefore considered and adjudged by the court, that the judgment of the District Court in and for the County of Eddy, whence this cause came into this court be and the same is hereby reversed, and this cause remanded to the District Court of the said

County of Eddy, with directions to grant a new trial thereof.

The Territory of New Mexico, Appellee.
Vs
635 Sostenis Lucero and Juan B. Romero, Appellants. } Appeal from Mora Co.

This cause having been argued by counsel and submitted to and taken under advisement upon a former term of this court, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bantz, Chief Justice Smith, and Associate Justices Hamilton and Collier concurring, reversing the judgment of the Court below, and remanding said cause for a new trial, for reasons stated in the opinion of the court on file:- It is therefore considered and adjudged by the court, that the judgment of the District Court in and for the county of Mora, whence this cause came into this Court, be and the same is hereby reversed, and this cause remanded to the District Court of the said County of Mora, with directions to grant a new trial thereof.

The Territory of New Mexico, Appellee.
Vs
630 Manuel Gregorio Vigil, Appellant. } Appeal from Taos County.

This cause having been argued by counsel and submitted to and taken under advisement by the court at a former term of this court, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Hamilton, Chief Justice Smith and Associate Justices Bantz and Collier concurring, reversing the judgment of the court below, and remanding this cause for a new trial, for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Taos, whence this cause came into this court, be and the same hereby is reversed, and this cause remanded to the District Court of the said County of Taos, with directions to grant a new trial thereof.

666 The Territory of New Mexico, Appellant. } Appeal from
vs. } Bernalillo Co.
Ellen Lockhart, Appellee.

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Baldwin, Chief Justice Smith and Associate Justices Laughlin and Hamilton, concurring, sustaining the demurrer and affirming the judgment of the court below, for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court, that the judgment of the District Court in and for the County of Bernalillo, whence this cause came into this court, be, and the same hereby is affirmed, and the demurrer sustained, and in accordance therewith, It is considered and adjudged by the court, that the indictment herein be, and the same is hereby quashed, and that the said Appellee go hence without day.

In re,

650 Jose F. Jaramillo. Habeas Corpus.

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Laughlin, Chief Justice Smith and Associate Justices Hamilton and Baldwin, concurring, discharging the said petitioner, for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Valencia, whence this cause came into this court, be and the same hereby is reversed, and that said petitioner Jose F. Jaramillo, go hence without day.

652 Alejandro Sandoval. Plaintiff in Error.
Vs
Richard B. Meyers. Treasurer.
Defendant in Error.
Error to Bernalillo Co.

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bantz, Associate Justices Hamilton and Laughlin, concurring, affirming the judgment of the court below for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court, that the judgment of the District Court of the County of Bernalillo be and the same hereby is affirmed and in accordance therewith; It is considered and adjudged by the court that the said defendant in error Richard B. Meyers, Treasurer, do have and recover from the said Plaintiff in error, Alejandro Sandoval, the sum of four hundred and fifty-six dollars, together with the costs in the court below, as well as in this court, to be taxed, and that execution issue therefor. And it appearing to the court that J. R. Arrigo and J. L. Perea, are sureties on the appeals bond of the said Alejandro Sandoval; - It is further considered and adjudged by the court, that the said defendant in error Richard B. Meyers, Treasurer, do have and recover of said J. R. Arrigo and J. L. Perea, sureties as aforesaid, the said sum of four hundred and fifty-six dollars, damages as aforesaid, together with the costs in the court below, as well as in this court, to be taxed, and that execution issue therefor.

610 In re. Assignment of Spitz Brothers.
Appeal from Bernalillo Co.

This cause having been argued by counsel and submitted to and taken under advisement on a former day of the present term, the court now being sufficiently advised in the premises, announces its decision by Associate Justice Laughlin, Chief Justice Smith, and Associate Justices Hamilton and Bantz, concurring.

affirming the judgment of the court below for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of Berrnalillo be and the same hereby is affirmed, and in accordance therewith, find that neither Edward Spitz or Bethold Spitz, is entitled to exemption out of the co-partnership assets of said firm, except as to such portion thereof as may remain after payment in full of the partnership creditors of said co-partnership of Spitz Brothers. And it is ordered that Appellants pay the costs in the court below as well as in this court to be taxed, and that execution issue therefor.

655

Nellie Holmes Plaintiff in error.
vs
John W. Tyler and F. C. Bartlett, partners under the firm name of Bartlett and Tyler.
} Error to Valencia Co.

This cause having been argued by counsel, and submitted to and taken under advisement by the court upon a former day of the present term the court being now sufficiently advised, in the premises announces it decision by Associate Justice Laughlin, Chief Justice Smith and Associate Justice Bantz concurring, reversing the judgment of the court below, and remand this cause for a new trial as to the said plaintiff in error for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment of the District Court for the county of Valencia whence this cause came into this court be and the same hereby is reversed, with directions to the District Court in and for the County of Valencia to grant a new trial as to said plaintiff in error Nellie Holmes. And it is further ordered that the said defendants in error pay the costs of this suit in the court below as well as in this court to be taxed, and that execution issue therefor

663 Mary J. Willey Plaintiff in Error.
Vs
Berthold Renner Defendant in Error. } Error to Bernalillo Co.

This cause having been argued by counsel and submitted to and taken under advisement by the court, upon a former day of the present term, the court being now fully advised in the premises, announces its decision by Associate Justice Hamilton, Chief Justice Smith, and Associate Justice Laughlin, concurring, reversing the judgment of the court below, and remanding this cause with directions to dismiss the suit, for reasons stated in the opinion of the court on file. Associate Justice Bantz, dissenting. It is therefor considered and adjudged by the court that the judgment of the District Court of the County of Bernalillo, whence this cause came into this court, be, and the same hereby is reversed, and this cause remanded to the District Court, in and for the County of Bernalillo, with directions to said court to dismiss said suit.

The Territory of New Mexico,
Plaintiff and Appellee
685 Vs
John Chamberlain. Defendant and Appellant. } Appeal from Lincoln Co.

This cause having been argued by counsel and submitted to and taken under advisement, by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bantz, Chief Justice Smith, and Associate Justices Laughlin and Collier, concurring, affirming the judgment and sentence of the court below, in this cause for reasons stated in the opinion of the court on file. It is therefor considered and adjudged by the court that the judgment and sentence in this cause of the District court of the County of Lincoln, whence this cause came into this court be and the same hereby is affirmed, And in accordance therewith. It is considered and adjudged by the court, that the said John Chamberlain be, and he hereby is committed to the custody of the

Sheriff of Socorro County, to be by him conveyed to Santa Fe, New Mexico, there to deliver him, the said John Chamberlain, into the custody of the Superintendent of the New Mexico Territorial Penitentiary, to be by him confined in said Penitentiary at hard labor for the full term of sixteen (16) years, beginning with the 1st day of September, in the year 1896, And it is further considered & adjudged by the court that the said John Chamberlain pay the costs of this prosecution in the court below as well as in this court, to be taxed, and that execution issue therefor, And it is further ordered that a warrant of commitment issue against the said John Chamberlain.

609

Joseph E. Saint, Receiver &c. Plaintiff in Error
Vs
Stephen M. Folsom, Defendant in Error } Error to Bernalillo Co

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises announces its decision by Chief Justice Smith, Associate Justices Laughlin, Baily and Hamilton concurring affirming the judgment of the court below for reasons stated in the opinion of the court on file. It is therefore considered and adjudged by the court that the judgment of the District Court, of the county of Bernalillo, whence this cause came up to this court, be and the same hereby is affirmed, and in accordance therewith, It is ordered that the Clerk ascertain said amount, and thereupon said amount is so ascertained and reported to be Sixteen Thousand and five dollars and ninety-three cents, It is therefore considered & adjudged by the Court, that the said Plaintiff in error Joseph E. Sait, Receiver recover of said Defendant in error Stephen M. Folsom, the amount of his damages, assessed as aforesaid, together with the costs in this behalf expended in the court below as well as in this court, to be taxed, and that execution issue therefor &c, It is further

ordered that this judgment bear interest at the rate of twelve per cent per annum from the 10th day of May, 1894. that being the rate expressed in the promissory note, upon which this judgment is based.

5744 John G. Albright, et al. Appellees
Vs
Texas Santa Fe and Northern Railroad Company. Appellants. } Appeal from Bernalillo Co.

This cause having been argued by counsel and submitted to, and taken under advisement by the court on a former day of the present term, upon a motion for a rehearing heretofore granted herein, the court now being sufficiently advised in the premises; announced its decision by Associate Justice Collier, Associate Justices Laughlin, Hamilton, and Bantz, concurring, setting aside the judgment affirming the judgment of the court below heretofore rendered in this court in this cause; and reversing this cause, with directions to the District court to vacate in conformity with this opinion, the decree entered in the District Court, with costs in behalf of appellants to be taxed:- It is therefore considered and adjudged by the court that the judgment heretofore rendered in this court, in this cause, be, and the same hereby is set aside, and that this cause be, and the same hereby is reversed. and this cause remanded to the District Court in and for the County of Bernalillo, whence this cause came into this court, with directions to said district court to vacate the decree entered in this cause, in said district court in conformity with the opinion. And it is further ordered that the appellees pay the costs in the court below, as well as in this court, to be taxed and that execution issue therefor.

661 Scipio Aguilar, Plaintiff in error.
Vs
The Territory of New Mexico. } Error to San Miguel County.

This cause having been argued by

counsel and submitted to and taken under advisement by the court upon a former day of the present term the court now being sufficiently advised in the premises, announces its decision by Associate Justice Hamilton, Associate Justices Baily and Collier concurring, reversing the judgment of the Court below, and remanding said cause for a new trial, for reasons stated in the opinion of the court on file. Associate Justice Laughlin, dissenting. - It is therefore considered and adjudged by the court that the judgment of the District Court in and for the County of San Miguel, whence this cause came into this court, be and the same is hereby reversed, and that this cause be and the same hereby is remanded to the District Court for the County of San Miguel with directions to grant a new trial thereof.

First National Bank of Albuquerque et al, Appellees. } Appeal from Bernalillo Co.

584 Vs

John A. Lee, Executor et al, Appellants.

This cause having been argued by counsel, and submitted to, and taken under advisement by the court, upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Hamilton, Chief Justice Smith, Associate Justices Collier and Baily, concurring, reversing this judgment of the court below in this cause, with leave to said Appellees to amend the bill, and for further proceedings in conformity with this opinion after so doing. - It is therefore considered and adjudged by the court, that the judgment of the District Court, for the county of Bernalillo, whence this cause came into this court, be and the same is hereby reversed, and that the Appellees herein be, and they hereby are granted leave to amend their bill and for further proceedings in conformity with this opinion after so doing. And it is ordered by the court that the appellants recover of the appellees, their costs in the court below, as in this court to be taxed, for which let execution issue.

Thirty-Second Day. Tuesday. September 1st. A. D. 1896.

698 Agapito Abeytas, Jr. and Victor Luyan. Plaintiffs in Error. } Error to Mora Co.
Vs
The Territory of New Mexico.

This cause coming on for hearing upon the transcript of record, assignment of errors and briefs of counsel on file, is argued by John P. Victory Esq., Solicitor General for Defendant in error and E. A. Larrazolo for Plaintiff in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

656 William C. Rogers, Plaintiff in error. } Error to Santa Fe Co.
Vs
Joseph Richards, Defendant in error.

By agreement of counsel for the respective attorneys, Charles A. Spiess, Esq. appearing for said Plaintiff in error and J. H. Sutherlin Esq., for Defendant in error this cause is now submitted to the court without argument, upon the transcript of record, assignment of errors and briefs of counsel on file, and the court not being sufficiently advised in the premises takes the same under advisement.

607 Charles W Lewis, Plaintiff in Error. } Error to Bernalillo Co.
Vs
A. H. Shipley, Defendant in Error.

It being made to appear to the court, that the above cause has been settled by the respective parties thereto,-It is therefore ordered by the court, that this cause be, and the same hereby is stricken from the docket of this court.

608 Charles W. Lewis, Plaintiff in Error. } Error to Bernalillo Co.
Vs
John Flournoy, Defendant in Error.

It being made to appear to the court, that the above cause has been settled by the respective parties thereto,-It is therefore ordered by the court that this cause be, and the same hereby is stricken from the docket of this court.

633 The Territory of New Mexico,
Vs
Julian Trujillo, Appellant, } Appeal from San Miguel County.

It appearing to the court, that the Governor of the Territory of New Mexico, has pardoned the defendant by appellant herein, as shown by a certified copy of said pardon on file herein, It is ordered by the court, that this cause be and the same is hereby stricken from the docket of this court.

Scipio Aguilar, Plaintiff in Error.
661 Vs
The Territory of New Mexico, } Error to San Miguel Co.

This cause having been argued by counsel, for the respective parties herein, on a motion of the Plaintiff in error, for a rule on the clerk of the District Court of the Fourth Judicial District of the Territory of New Mexico, in and for the County of San Miguel, to send up to this court, instanter to the said Plaintiff in Error, the transcript of the record of the proceedings had in this court. And the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bantz, Chief Justice Smith, and Associate Justices Laughlin and Hamilton, concurring, making the rule absolute.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice.

Thirty-Third Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The records of Yesterdays proceedings is read & approved.

United States of America, Appellee. }
vs } Appeal from Dave=
573 Stephen M. Folsom, Appellant. } nalls Co.

Whereas the judgment in this court in the above cause, entered on the fourth day of September, A. D. 1894, was taken for review into the United States Circuit Court of Appeals, Eighth Circuit, by a writ of error sued out of said Court of Appeals by the said Stephen M. Folsom: And whereas by the mandate of the said Court of Appeals, issued at the May term, A. D. 1896. of said court of appeals, it appears that the said writ of error was dis=missed in said court for want of jurisdiction: and it was ordered that the said Stephen M. Folsom, appear before this court, at the opening of the present term thereof, and abide the or=der and judgment of this court, And whereas the Attorney for the United States has not presented the said mandate to this court for action thereon as in response to an inquiry from the court, has stated that he has been directed by the Attorney General for the United States not to ask any action on said mandate at the present term of this court, and that therefore he would not ask any such action: And whereas in the opinion of this court, judgment should now be entered upon said mandate, the said Stephen M. Folsom, ap=pearing by his counsel F. W. Clancy and objecting thereto: On consideration thereof, it is now by the court of its own motion, here ordered and adjudged by this court, that in accordance with the said judgment of this court, entered on said fourth day of September, A. D. 1894, a warrant of commitment forthwith, be issued against the said Stephen M. Folsom

so that he shall serve his said sentence, to-wit:- that the said Stephen M. Folsom be confined in the New Mexico Penitentiary situated at Santa Fe, New Mexico, for the full term of five years, beginning with the day of his return to the said Penitentiary under this judgment, for each of the seven offences for which he was convicted in the lower court, but the said seven periods of five years each shall run concurrently, deducting therefrom the length of time during which he has been heretofore confined in said Penitentiary under said judgment of this court. and that a warrant of commitment issue

573 United States of America, Appellee. Vs Stephen M. Folsom, Appellant. } Appeal from Bernalillo County.

Now comes said Appellee by her Attorney, and said Appellant though now three times solemly called, comes not but makes default, and it appearing to the court, that the said Appellant as principal, and William P. Metcalf, Charles W. Lewis, Frank W. Clancy, Edward A. Cahoon, William S. Prager and Thomas B. Catron, as surities on the 17th day of November, 1894, entered into a recognizance unto the United States of America in the sum of Fifteen Thousand Dollars, conditioned for the appearance of the said Stephen M. Folsom, before the Circuit Court of Appeals at the city of St Louis, Missouri, on or before said first day of January, 1895, and that he would remain in attendance thereon from day to day and from term to term until discharged by order of the court, the said William P. Metcalf, Charles W. Lewis, Frank W. Clancy, Edward A. Cahoon, William S. Prager and Thomas B. Catron, are each now three times solemnly called, and are required to produce the body of the said Appellant in open court under the penalty of the forfiture of said bond; and they come not, nor produce his body, but make default, and thereupon the court declares, said bond forfeited, - It is therefore considered and adjudged by the court that said Appellee, United States of America, recover

of said William O. Metcalf, Charles W. Lewis, Frank W. Clancy, Edward A. Cahoon, William L. Prager and Thomas B. Catron, the sum of Fifteen Thousand Dollars, the penalty of said bond. And it is further ordered that scire facias returnable to the next term of this court issue to said persons requiring them to show cause, if any they have, why said plaintiff, should not have execution of her said judgment.

629 A. M. Gentile, Appellee. Vs Charles W. Kennedy, et al, Appellants. } Appeal from Dona Ana Lillis County.

Now comes the said Appellants by their Solicitor Childers and Dobson, and the said appellants pray an appeal from the judgment and decree of this court in this cause, to the Supreme Court of the United States, and the court being sufficiently advised in the premises, grants said prayer. It is therefor considered and adjudged by the court that the said Appellants, be, and they hereby are allowed an appeal from the judgment and decree of this court in this cause, to the Supreme Court of the United States. And it is further considered and adjudged by the court that said Appellants enter into a good and sufficient bond in the sum of Fifteen hundred dollars, with surties to be approved by the clerk of this court, conditioned for the payment of all costs in connection with this appeal, and for the payment of all costs already adjudged or taxed in case said appeal be denied or said decree affirmed.

Agapito Abeytia, et al, Victor Luyan. Plaintiffs in Error. } Error to San Miguel Co.

698 Vs The Territory of New Mexico.

This cause having been argued by counsel and submitted to and taken under advisement by the court, upon a former day of the present term, the court being now sufficiently advised in the premises, announces it decision by Associate Justice Collier, Associate Justices Laughlin, Baca and Hamilton, concurring, affirming the judgment of the court below, denying said Plaintiffs in error bail. - It is therefore

considered and adjudged by the court, that the judgment of the District Court, in and for the County of San Miguel, whence this cause came into this court, be, and the same hereby is affirmed. And in accordance therewith - It is considered and adjudged by the court, that the said Plaintiffs in error Agapito Abeytia and Victor Luyan, be and they hereby are refused bail.

The Territory of New Mexico, Appellee.
vs
Jose Chavez y Chavez, Appellant. } Appeal from San Miguel County

671

Now comes the Appellee by her Solicitor General, and move the court to grant a re-hearing of this cause, for reasons stated in the motion on file, and the court hears arguments thereon, and the court being sufficiently advised in the premises denies said motion

Francisco Gonzales y Borrego, et al.
Plaintiffs in Error.
vs
The Territory of New Mexico.

} Error to Santa Fe County

618

Now comes the Plaintiffs in Error by their Attorneys Catron and Spiess, and move the court, to grant them a rehearing of this cause, for reasons stated in their motion on file, and the court hears arguments thereon, and the court not being sufficiently advised in the premises takes the same under advisement

It is ordered that court do now adjourn until tomorrow morning at ten o'clock

Thomas Smith
Chief Justice

Thirty-Fourth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday. except Hon: H. G. Hamilton.

The record of Yesterdays Proceedings is read & approved.

It is ordered that court do now adjourn until tomorrow morning at nine o'clock.

Thomas Smith
Chief Justice.

Thirty-Fifth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read & approved.

Francisco Gonzales y Borrego. et al.
Plaintiffs in Error.
Vs
The Territory of New Mexico.

618 } Error to Santa Fe County.

This cause having been argued by by counsel, and submitted to and taken under advisement by the court upon a former day of the present term, upon the motion of the Plaintiffs in error for a rehearing herein the court now being sufficiently advised in the premises, announces its decision granting said motion.- It is therefore considered and adjudged by the court, that the said Plaintiffs in Error be, and they hereby are granted a rehearing herein.

Francisco Gonzales y Borrego. et al.
Pliaintiffs in Error.
Vs
The Territory of New Mexico.

618 } Error to Santa Fe County.

Now comes the defendant in Error by her Solicitor General, and moves the court for reasons stated in his motions on file, to vacate the judgment heretofore entered herein, and grant a rehearing herein of said cause, and suggests the diminution of the record of said cause, and the court being sufficiently advised in the premises grants said motions. It is therefore considered and adjudged by the court that said motions be and the same hereby are granted, and that the judgment heretofore entered herein be, and the same hereby is vacated, and set aside, and the defendant in error hereby is granted a rehearing in said cause. And the said defendant in error prays that a writ of certiorari issue out of this court, directed to the clerk of the

District Court of the First Judicial District ~~Court~~ of the Territory of New Mexico, in and for the ~~County~~ of Santa Fe, commanding him to forthwith transmit, to the clerk of this court, a full, true, complete and perfect transcript of all record entries touching the matter of the arraignment, and the pleas entered by the defendant, and plaintiffs in error in this cause, and the court being sufficiently advised in the premises grants said prayer, - It is therefor considered and adjudged by the court that the said prayer of said defendant in error be, and the same hereby is granted, - It is therefor ordered that a writ of certiorari issued as prayed.

Francisco Gonzales y Borrego, et as.
Plaintiffs in Error.

618 Vs

The Territory of New Mexico.

} Error to Santa Fe Co.

Now comes the plaintiffs by T. W. Clancy, Esq., and moves the court for reasons stated in his motion on file, to strike from the files of this court the alleged record, returned this day to this court, by the clerk of the District Court for Santa Fe County, and the court not being sufficiently advised in the premises takes the same under advisement.

Francisco Gonzales y Borrego, et as.
Plaintiffs in Error.

618 Vs

The Territory of New Mexico.

} Error to Santa Fe Co.

Now comes the said plaintiffs in error by T. W. Clancy, Esq., and suggests to the court here a diminution of the records in this cause, and prays that a writ of certiorari issue out of this court, directed to the clerk of the District Court of the First Judicial District of the Territory of New Mexico, in and for the County of Santa Fe, commanding him to forthwith to transmit to the clerk of this court, a full, true, complete and perfect transcript of the papers on file in the office of the said clerk of the District Court, as set out in his

motion now file. and the court not being sufficiently advised in the premises takes the same under advisement.

Whereas Geo. L. Wyllys, Clerk of the First Judicial District Court of New Mexico, has rendered to this court, an account for his official services, for the quarter ending September 30th, 1896, with the items thereof, and in presence of Geo. O. Money, Esq. Assistant United States Attorney for New Mexico, and has by his oath attached to the account, proved to the satisfaction of the court, that the services therein charged, have been actually and necessarily performed as therein stated; And whereas, said charges appear to be just and according to law:- It is hereby ordered that said account, amounting to $199.50, be and the same is hereby approved.

It is ordered that court do now adjourn until tomorrow morning at ten oclock.

Thomas Smith
Chief Justice.

Thirty-sixth day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read & approved.

W. A. Maxwell, Receiver.
Plaintiff in Error.
Vs
653 James W. Tufts, Defendant in Error. } Error to Bernalillo County.

On motion of E. A. Fiske, Esq., It is ordered that a rule be, and the same hereby is entered upon the Sheriff of the County of Bernalillo, requiring him to forthwith return to the clerk of this court, the execution issued out of this court in the above cause, on August 18th, 1896, or to show cause why he should not so do.

Francisco Gonzales y Borrego, et al.
Plaintiffs in Error.
Vs
618 The Territory of New Mexico. } Error to Santa County.

Now comes F. W. Clancy, Esq., and files a statement regarding his appearance in the above entitled cause.

Francisco Gonzales y Borrego, et al.
Plaintiffs in Error.
Vs
618 The Territory of New Mexico.

Now again comes the plaintiffs in error by their attorneys Catron & Spiess, Esqrs., and F. W. Clancy, Esq., and again comes the defendant in error by her Solicitor General, John P. Victory, Esq., and J. H. Crist, Esq., and the court hears further argument upon the motions heretofore filed by F. W. Clancy, Esq., to strike from the files of this court the alleged record, as filed herein by defendant in error, and to grant the said plaintiffs in error a writ of certiorari as heretofore prayed, and the same is submitted to the court and the court not being sufficiently advised

in the premises, takes the same under advisement.

It is ordered that court do now adjourn until Monday morning at ten o'clock.,

Thomas Smith
Chief Justice.

Thirty-seventh day.

Court meets pursuant to adjournment.

Present as upon Saturday.

The record of Saturdays proceedings is read and approved.

653 W. A. Maxwell, Receiver, Plaintiff in Error.
Vs
James W. Tufts, Defendant in Error. } Error to Bernalillo Co.

It is ordered by the court that the rule heretofore issued out of this court, requiring the Sheriff of Bernalillo County to return into this court the execution issued out of this court in this cause be, and the same hereby is vacated and set aside.

Dolorita Martin de Cordova, et al,
Appellants.
582 Vs
Henry Korte, - et al, Appellees. } Appeal from San Miguel Co.

Upon reading and filing the motion of appellees herein, by their solicitors Long and Fort, Esqs. and Eugene A. Fiske, Esq. - It is ordered that the issue of mandate and of execution in this cause be and the same are hereby stayed during the present term of this court provided that said appellees or some one or more of them shall within six days from this date make, execute and file in this court a good and sufficient bond with two or more sureties in the sum of nine hundred dollars, and approved by the clerk of this court, to the said appellants, and conditioned to pay to the said appellants all accrued costs in this cause which are lawfully payable by said appellees in said cause to said appellants in this cause if said appellees shall not during the present July Term 1896, of this court duly take an appeal in said cause from the judgment or decree of this court in this cause to the Supreme Court of the United States and also in addition to said appeal, make, execute and file in this cause, a good and sufficient bond to stay and supercede the execution of said decree pending the determination of said cause on such appeal.

653

W. A. Maxwell, Receiver, Plaintiff in Error,
Vs. } Error to
James W. Tufts, Defendant in Error. } Bernalillo Co.

Now comes the defendant in error by his attorney, G. W. Johnson Esq., and moves the court for reasons stated here in open court, to enter judgment against the sureties on the appeal bond in the above entitled cause, and the court being sufficiently advised in the premises grants said motion. - It is therefore considered and adjudged by the court, that said motion be, and the same hereby is granted - And it appearing to the court, that W. S. Stricklerand J. C. Baldridge are the sureties on the said appeal bond. - It is now ordered that James W. Tufts, Plaintiff in Error do have and recover of W. S. Stricklerand J. C. Baldridge sureties as aforesaid the amount of One thousand dollars damages so assessed as aforesaid, and the costs in this behalf expended in the court below as well as in this court, to be taxed, and that execution issue therefor.

Now comes John P. Victory, Esq., and moves the court to appoint a committee of five members of this bar to draft suitable resolutions on the death of the late J. B. H. Hemingway, and the court grants the same. - It is therefore ordered by the court, that John P. Victory, William B. Childers, Eugene A. Fiske, James H. Sutherlinand H. A. Fireman, Esqrs., members of this bar to draft suitable resolutions as aforesaid.

It is ordered that court do now adjourn until Thursday, morning Sep. 24th. 1896

Thomas Smith
Chief Justice.

Thirty-eighth day.

Court meets pursuant to adjournment.

Present as upon Monday September 7th. 1896.

The record of Monday Sep. 7th. proceedings is read and approved.

584 First National Bank of Albuquerque et as. } Appellees } Appeal from
Vs
John A. Lee, Executor et as. } Bernalillo Co.

Now comes H. L. Warren, Esq., attorney for said Appellees, and moves the court to grant him leave to file a petition for rehearing herein, and the court being sufficiently advised in the premises grants said motion. - It is therfor considered and adjudged by the court, that said motion be, and the same is hereby granted, and that said Appellees be, and they hereby are granted leave to file their petition for a re-hearing herein.

In re.

650 Jose F. Jaramillo. } Habeas Corpus.

Now comes Nils B. Field, Esq. Attorney for Celina C. Jaramillo, and moves the court for leave to file his petition for a rehearing herein, and the court being sufficiently advised in the premises grants said motion. - It is therfore considered and adjudged by the court, that said motion be, and the same hereby is granted, and that said Celina C. Jaramillo be, and she hereby is granted leave to file her petition for a rehearing herein.

Francisco Gonzales y Borrego et as. } Plaintiffs in Error } Error to Santa Fe
618 Vs } County.
The Territory of New Mexico. } Defendant in Error.

Now comes the Defendant in Error by John P. Victory, Esq. her Solicitor General and prays the court that a writ of certiorari issue out of this court, directed to the clerk of the District Court of the First Judicial District, of the Territory of New Mexico, in and for the County of Santa Fe, commanding him, to forthwith transmit to the clerk of this court, a full, true, perfect and complete

transcript of all record entries touching the matter of arraignment, and the pleas entered by the defendant and plaintiffs in error in this cause. And the court having sufficiently aforesaid in the premises, hereby grants said writ of error - it is therefore considered and adjudged by the court, that said petition of defendant in error be, and the same hereby is granted, and that said writ of certiorari issue as prayed.

513 United States of America Appellee.
vs
Stefan M. Falcon. Appellant.

Appeal from 2nd Judicial District Court.

Now comes Neil S. Field, Esq. Attorney for said Appellant herein, and moves the court for reasons stated in open court, to vacate and set aside the forfeiture of the bond heretofore entered herein, and the court being sufficiently advised in the premises grants said motion. - It is therefore considered and adjudged by the court that the said forfeiture of the bond herein heretofore entered, be and the same hereby is set aside, and vacated.

532 Epifanio Martin de Cordova et al. Appellants.
vs
Henry Foote et al. Appellees.

Appeal from San Miguel Co

This cause coming on to be further heard upon the application of the appellants herein, that the defendants in said cause be required to give a good and sufficient bond in case of an appeal of said cause from the judgment and decree of this court; and the said appellees having now applied for an appeal, and the same having been by the court granted. - It is thereupon ordered, adjudged and decreed by the court, that an appeal in said cause be and the same hereby is allowed upon the appellees filing in said cause a good and sufficient supersedeas bond to the said appellants herein in the sum of Eight thousand dollars, with good and sufficient sureties thereon, conditioned that the said appellees shall pay to the said appellants all costs of said cause, and any and all damages that may accrue to them by virtue of said appeal, said bond to be approved as to the suf-

ficiency of the suretis thereon by the Chief Justice of this court, and to be filed within ninety days from the date of the judgment and decree entered by this court herein.
September 24, 1896.

653

W. A. Maxwell, Receiver Plaintiff in Error.
Vs
James W. Tufts, Defendant in Error. } Error to Bernalillo County.

Upon motion of the plaintiff in error and his suretis, the judgments heretofore entered in said cause, are hereby vacated and set aside, and the execution issued on the judgment against said suretis is hereby recalled, and in lieu of said judgments, the following judgment be, and the same is hereby entered in said cause.
This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of the present term, the court being now sufficiently advised in the premises, announces its decision by Associate Justice Bantz, affirming the judgment of the court below. Associate Justices Hamilton & Laughlin concurring, for reasons stated in the opinion of the court on file. - It is therefor considered and adjudged by the court, that the judgment herein, of the District Court of the county of Bernalillo, whence this cause came into this court, be, and the same is hereby affirmed, and in accordance therewith; that the said defendant in error James W. Tufts, is entitled to the possession, and that he do have the possession of the following goods and chattels, to-wit:- One Knoohaas cherry-top soda-fountain, manufactured by James W. Tufts, for Thomas H. Burgess & Son, together with one generator, six steel tanks, and all fixtures and appurtenances connected therewith, or that he do have and recover from the said plaintiff in error W. A. Maxwell, Receiver, and W. S. Strickler and J. C. Baldridge, suretis on his supersedeas bond, One Thousand Dollars, together with interest on said amount from the 26th day of October, 1895, and the said sum of forty-seven 00/100 dollars, the amount of the damages so found and assessed for the unlawful detention of said

property together with the costs in the court below as well as in this court, to be taxed, and that execution issue therefor.

The committee of the bar appointed by the Supreme Court of the Territory of New Mexico on the 7th day of September, A. D. 1896, to await resolutions appropriate to the death of Hon. E. B. H. Hemingway, beg leave to submit the following:-

Hon. Edward B. H. Hemingway, United States Attorney for the Territory of New Mexico, and a member of the bar of this court, died this day in the City of Santa Fe. Mr. Hemingway's promise as an official, his high attainments as a member of the bar, and his worth as a citizen make this an appropriate time at which to pay some tribute to the memory of one whose life went out amid the universal regret, and the unstinted admiration of his fellow citizens. Mr. Hemingway was a native of Mississippi, and at his death, was still comparatively a young man, not having yet attained his forty-seventh year. His first public service was in the office of probate judge of his home county, in the year 1870. From 1871 to 1873 he was a member of the Mississippi state legislature, and in 1874 he served as mayor of Vicksburg, Miss. From 1877 to 1889 he served as reporter of the Supreme Court of Mississippi. The fidelity and distinction with which he discharged the duties of this trying position are enjoined by the published reports of that court for the period mentioned. In 1890 Mr. Hemingway's talents were further recognized in his appointment by President Cleveland as United States attorney for this Territory, and it has been in the discharge of the duties of this responsible office that he has been brought into touch with the bar which now unites in paying this heart-felt tribute to his memory. - Mr. Hemingway's fidelity to duty was a trait so pronounced as to amount to self-abnegation. Of him as of the late Mr. Justice Jackson, may it be said, that the vigor he displayed in the

performance of duty was "in spite of the dragging of disease," and was, "a striking instance of the calm heroism of peace." Like that great Judge, "reputation and honors did not affect his quite simplicity nor add to the unobtrusive dignity which marked no assertion".- Mr. Hemingway's, mind was of the cast that makes great Judges; he was at his best in the consideration and presentation of the great questions which are essentially judicial in their character and universal in their application. With a mind thus admirably suited for the higher duties of the bar; with an experience and an opportunity for study, that had amply developed his splendid natural abilities; with a nature peculiarly characterized by the perfect poise which comes only from a heart that keeps pace with mind- it is not to be wondered that his stay amongst us leaves an impression that time shall not eradicate, and that his untimely taking-off is accompanied by a sense of deep personal bereavement on the part of those he leaves behind.- In consideration of these facts, your committee beg to recommend for adoption, the following:- Resolved, that in the death of Hon. C. S. H. Hemingway, the bar of New Mexico has lost a member who was both devoted to the principles of the law and distinguished in their practice; the people of the United States have lost a faithful servant whose admiration of duty was always in accord with the highest demands of the public welfare; and the community has lost a citizen whose example furnished a splendid incentive to nobility of character and spotlessness of life.- Resolved, further, that we desire hereby to express our deep sympathy with the family of our deceased brother and friend;- Resolved, that these resolutions be presented to the Supreme Court of New Mexico, in order that they may be spread upon the records of that court, and that the clerk of that court be instructed to forward a copy of the same, duly certified, to the bereaved family.

Jno. P. Victory.
Chairman.

Day, A. D. 189

618

Francisco Gonzales y Bongo, et al
Plaintiffs in Error.
Vs
The Territory of New Mexico, Defendant in Error
Error to Santa Fe County.

This court having had under consideration the motion of Catron & Spiess, attorneys for plaintiffs in error, filed herein, on September 4th, 1896. to strike from the files of this court the records returned on said day, to this court, by the clerk of the District Court for Santa Fe County, of proceedings had in said cause, in said court, on the 3rd day of September A. D. 1896. touching the amendment of the records of the proceedings had in said cause, in said court, on to-wit:- April 23rd A. D. 1895, and being fully advised in the premises. It is therefore now ordered, adjudged and decreed, that the said motion be, and the same is hereby allowed and granted, and the said records returned into this court, as aforesaid, be, and the same is hereby stricken from the files of this court.

618

Francisco Gonzales y Bongo, et al.
Plaintiffs in Error.
Vs
The Territory of New Mexico,
Defendant in Error.
Error to Santa Fe County.

The court having had under consideration the motion of Catron & Spiess, attorneys for plaintiffs in error, herein, to strike from the files of this court, the record returned this day into this court, by the clerk of the District Court for Santa Fe County, touching certain proceedings had, in said District Court, on to-wit:- the 22nd day of September A. D. 1896. amending the record of proceedings had in said cause in said court, on to-wit:- the 23rd day of April A. D. 1895, and the court now being fully advised in the premises.- It is ordered, adjudged and decreed, that the said motion be, overruled, disallowed and refused, and the same is hereby overruled, disallowed and refused.

618

Francisco Gonzales y Bonga. et al...
Plaintiffs in Error,
Vs
The Territory of New Mexico.
Defendant in Error

Error to Santa Fe County.

This cause having come on to be heard upon the rehearing heretofore granted herein, and upon the amended record heretofore filed herein, and the same having been argued by counsel and submitted to and taken under advisement by the court, upon this day, and the court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith, affirming the judgment and sentence of the court below in this cause, - Associate Justices Collier and Bantz concurring, for reasons stated in the opinion of the court on file, - It is therefore considered and adjudged by the court, that the judgment and sentence in this cause of the District Court in and for the county of Santa Fe, whence this cause came unto this court, be, and the same is hereby affirmed; - and it appearing to the court that the date fixed by the District Court for the execution of said defendants has passed, It is now further ordered, considered and adjudged by the court, that the said Francisco Gonzales y Bonga, Antonio Gonzales y Bonga, Lauriano Alaris and Patricio Valencia, be, and they, and each of them hereby are committed to the custody of the Sheriff of the county of Santa Fe, New Mexico, to be by him safely and securely confined in the common jail of said county of Santa Fe, until Thursday the fifteenth day of October, a. D., 1896, and on said day to be thence conveyed to some suitable spot within said County of Santa Fe, and between the hours of six o'clock in the forenoon and five o'clock in the afternoon of said day, the said Francisco Gonzales y Bonga, Antonio Gonzales y Bonga, Lauriano Alaris and Patricio Valencia, and they, and each of them to be by said Sheriff hanged by the neck until they and each of them be dead; - And it is further considered and adjudged by the court, that a duly certified copy of this judgment and sentence, attested by the clerk of this court, shall be the warrant to said Sheriff for the due execution thereof.

700 In re. Application of Francisco Gonzales y Bongo, Antonia Gonzales y Bongo, Luciano Maria y Patricio Valencia. Habeas Corpus

Now comes the above named petitioners by their attorneys Catron and Catron and move the court for leave to file their petition herein, and prayes the court for a writ of habeas corpus directed to William P. Cunningham the Sheriff of Santa Fe County in the Territory of New Mexico, commanding him to forthwith produce the body of the said petitioners, before this court, whereupon the court directs that the petition be filed, and announces that it will make its order in the premises on the incoming of court tomorrow morning.

668 Charles Probst, Plaintiff in Error. vs The Trustees of the Board of Domestic Missions of the General Assembly of the Presbyterian Church in the United States. Error to Santa Fe County.

Now comes E. A. Fiske, Esq. attorney for defendant in error, and moves the court to dismiss this cause for reasons stated in his motion on file and the court being sufficiently advised in the premises grants said motion, It is therefor considered and adjudged by the court that the said motion be and the same hereby is granted and said writ of error in said cause dismissed: and it appearing to the court that Augusta Probst and Robert Helbig, are sureties on the supersedeas bond herein, It is further considered and adjudged by the court that the said defendant in error do have and recover from the said Charles Probst plaintiff in error, and Augusta Probst and Robert Helbig sureties as aforesaid its costs in the court below as well as in this court to be taxed, and that execution issue therefor.

Day. A. D. 189

It is ordered that court do now adjourn until to-morrow morning at half past nine o'clock.

Thomas Smith
Chief Justice.

Thirty-ninth day.

Court meets pursuant to adjournment.

Present as upon Yesterday

The record of Yesterdays proceedings is read & approved.

In re.

700 Application of Francisco Gonzales y Borrego, Atonio Gonzales y Borrego, Lauriano Alarid and Patricio Valencia. Habeas Corpus

The petition of Francisco Gonzales y Borrego, Antonio Gonzales y Borrego, Lauriano Alarid & Patricio Valencia for a writ of habeas corpus having been heretofore presented to the court with the exhibits attached as a part thereof, and the court having fully considered the application and petition, and the exhibits attached, directs that a writ of habeas corpus as prayed for in said petition do issue to William O. Cunningham, Sheriff, for the County of Santa Fe, commanding him to forthwith have and produce the bodies of the said petitioners befor this court, then to submit and receive what the law may require.

Whereas. Geo L. Wyllys. Clerk of the Supreme Court of the Territory of New Mexico. has rendered to this court an account for his official services, from the 27th day of July. 1896. to the 25th day of September, 1896. with the items and vouchers thereof, and in presence of Geo. P. Money. Assistant United States Attorney for New Mexico, and has by his oath attached to the account, proved to the satisfaction of the court, that the services therein charged have been actually and necessarily performed as therein stated; And whereas said charges appear to be just and according to law. - It is hereby ordered that said account amounting to $565.00, be, and the same hereby is approved. And it is hereby certified, that

upon the days for which per diems is charged the court was opened for business, and business was actually transacted in court, or the clerk attended as provided by sections 583-584-671 or 672 Revised Statutes, United States.

In re.

700 Application of Francisco Gonzales y Bonrgo, Antonio Gonzales y Bonrgo, Lauriano Alarid and Patricio Valencia. Habeas Corpus.

Comes now William C Cunningham Sheriff of the county of Santa Fe, in the Territory of New Mexico, and in obedience to the writ of habeas corpus heretofore issued herein, and produces the bodies of the said Francisco Gonzales y Bonrgo, Antonio Gonzales y Bonrgo, Lauriano Alarid and Patricio Valencia, and files herein his return to the writ for cause of the detention by him of the aforesaid petitioners and comes also the said petitioners and files their answer to said return, and this cause being submitted to the court upon the petition, writ and the return thereto, and the answer of said petitioners to said return, and it appearing therefrom that the said petitioners are committed and detained in the custody of the said William C. Cunningham, sheriff of the county of Santa Fe, in the Territory aforesaid, by virtue of the final judgment, conviction and sentence of the district court, within and for the said county of Santa Fe, and under and by virtue of the final judgment and sentence of the Supreme Court of the Territory of New Mexico affirming the said judgment, conviction and sentence of the said district court as set forth in the said return: It is hereby ordered that the said writ of habeas corpus be, and the same is hereby discharged, and that the said Francisco Gonzales y Bonrgo, Antonio Gonzales y Bonrgo, Lauriano Alarid and Patricio Valencias be and they hereby are remanded

to the custody of the said sheriff. to be dealt with in pursuance of the judgment, conviction and sentence aforesaid.

In re.
Application of Francisco Gonzales y Borrego, Antonio Gonzales y Borrego, Luciano Alarid and Patricio Valencia. } Habras Corpus.

The above cause having come on to be heard, upon the prayer of said petitioners for an appeal to the Supreme Court of the United States from the judgment of this court, discharging the writ of habras corpus heretofor issued herein, and remanding the said petitioners to the custody of the Sheriff of Santa Fe County in the Territory aforesaid, and argument having been heard upon said prayer by counsel for petitioners, and by counsel for the Territory of New Mexico, and the court having had said prayer under advisement and being fully advised in the premises.- It is therefore now ordered, adjudged and decreed that said prayer for said appeal be and the same hereby is denied, and that said appeal as prayed for be and the same is hereby denied.

In re
Application of Francisco Gonzales y Borrego, Antonio Gonzales y Borrego, Luciano Alarid and Patricio Valencia. } Habras Corpus.

On motion of T. B. Catron, Esq., attorney for said petitioners herein, It is ordered by the court that the Hon. N. C. Collier be and he hereby is authorized to sign a bill of exceptions herein.

It is ordered that court do now adjourn until Monday, December 14th, 1896, at ten o'clock A. M. of said day

Thomas Smith
Chief Justice

Fortieth Day.

Court meets pursuant to adjournment.

Present as upon Friday, September 25th, 1896. except the Honorable, Associate Justices, H. B. Hamilton and Gideon D. Bantz.

The record of Friday's, September 25th, 1896. proceedings is read and approved.

It is ordered by the court, that J. P. Delgado, be, and he hereby is appointed crier to the court, and he thereupon appears in open court and is duly sworn as such.

It is ordered by the court, that Edgar L. Wilson, be, and he hereby is appointed bailiff to the court, and he thereupon appears in open court and is duly sworn as such.

672 John Boyles, Sr. Appellant. vs The Mountain Key Mining Co. et al. and William Walker and James S. Freeder, Appellees. } Appeal from Socorro Co.

It is ordered by the court, that the foregoing cause be, and the same hereby is continued until the next regular term of this court.

648 Peter D. Ridenour, et al. Plaintiffs in Error. vs Charles J. Price, Defendant in Error. } Error to Grant Co.

Now comes the Plaintiffs in Error by their attorney F. W. Parker, Esq. and says to the court here, that he will not further prosecute their writ of error herein, but dismisses the same. & It is therefore considered and adjudged by the court, that said writ of error be, and the same hereby is dismissed.

The United States of America.
Appellee.
Vs.
631 Joseph Routledge, Appellant. } Appeal from 1st Dist.

Now comes the Appellee by her Attorney A. A. Jones, Esq= and moves the court for leave to file a petition for a rehearing herein, and the court being sufficiently advised in the premises grants said motion. It is therefor considered and adjudged by the court, that said Appellee be, and it hereby is granted leave to file a petition for rehearing herein.

The United States of America.
Appellee.
Vs
677 B. B. Spencer. Appellant. } Appeal from 2nd Dist.

By agreement of the said parties by their respective Attorneys. Geo. P. Money, Esq. Assistant United States Attorney appearing for said Appellee, and Charles A. Spies, Esq. and A. L. Morrison, Esq. appearing for the Appellant, this cause is now submitted to the court, without argument, upon the transcript of record assignment of error, and briefs of counsel on file, and the court not being sufficiently advised in the premises, takes the same under advisement.

The United States of America, Appellee.
Vs
702 Edgar M. Biggs, Appellant. } Appeal from 1st Dist.

Now comes the Appellee by her attorney A. A. Jones, Esq., and moves the court for leave to file its transcript herein, and the court grants the same. - It is therefor considered and adjudged by the court that the Appelle be, and it hereby is granted leave to file its transcript herein.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock.

Thomas Smith
Chief Justice.

Forty-First Day.

Court meets pursuant to adjournment.

Present as upon Yesterday, also the Honorables Associate Justices, H. B. Hamilton Esq Gideon D. Bantz.

The record of Yesterdays proceedings is read & approved

686 Territory of New Mexico, Appellee. Vs Cecilio Rodriquez, Appellant. } Appeal from Dona Ana Co.

By agreement of all parties interested, It is ordered by the court that the forgoing cause be and the same herby is continued until the adjourned session of this court, if any there be hereafter taken, otherwise, until the next term of this court.

585 James F. Johnson et al, Appellees. Vs Macario Gallegos, Sheriff, et al, } Appeal from Mora Co.

By consent of counsel herein. It is ordered by the court, that the forgoing cause be, and the same herby is continued until the next regular term of this court.

On motion of E. W. Dobson, Esq., It is ordered by the court, that Percy S. Williams a member of the Bar of the Fifth Judicial District, be and he herby is admitted to practice as an attorney, solicitor and counsellor of this court; and he thereupon appears in open court, and takes the official oath, prescribed by the rules of this court.

680 W. W. Flournoy, et al, Appellants. Vs Bullock, Baker and Co. and George W. Champion, } Appeal from Bernalillo Co.

Now comes the said Appellees, by their Attorney F. W. Clancy, Esq., and moves the court for reasons stated in his motion

vor file, to dismiss the appeal of appellants taken herein, and said motion is argued by F. W. Clancy, Esq., in favor of said motion, and E. W. Dobson, Esq. and A. B. McMillin, Esq., against said motion, and the court being now sufficiently advised in the premises, denies said motion. It is therefore considered and adjudged by the court, that said motion be, and the same hereby is denied.

A. W. Rice, Appellee.
Vs
695 John W. Schofield, Receiver, et al. } Appeal from
George W. Champion, Intervening } Bernalillo Co.
petitioner.

Now comes the said appellee by his attorney, F. W. Clancy, Esq., and for reasons stated in his motion on file, to dismiss the appeal of appellants taken herein, and said motion is argued by F. W. Clancy, Esq., in favor of said motion, and E. W. Dobson and A. B. McMillin, Esqrs, against said motion, and the court being now sufficiently advised in the premises, denies the same, It is therefore considered and adjudged by the court, that said motion be, and the same hereby is denied.

The Territory of New Mexico, Appellee
Vs
676 Eluterio Leyba, Appellant. } Appeal from
Bernalillo Co.

This cause coming on for hearing upon the transcript of record, assignment of errors, and briefs of counsel on file, the same is argued by, John P. Victory, Solicitor General for the Territory of New Mexico, for said appellee, and by W. S. Rodey, Esq., solicitor for said appellant, and submitted to the court, and the court not being sufficiently advised in the premises, takes the cause under advisement.

It is ordered that court do now adjourn until tomorrow morning at ten o'clock

Thomas Smith
Chief Justice.

Forty-Second Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterday's proceedings is read & approved.

The Cerrillos Coal Railroad Company, Plaintiff in Error,
Vs
Josephine Devereaux, Administratrix Defendant in Error
664 } Error to Santa Fe County.

This cause coming on to be heard upon the transcript of record, assignments of error, and and briefs of counsel on file, the same is argued by H. L. Waldo, Esq. and R. E. Twitchell, Esq. for the said Plaintiff in error, and by Neil B. Field, Esq. and F. W. Clancy, Esq. for said Defendant in Error, and the court hears a portion of the argument.

It is ordered that court, do now adjourn until tomorrow morning at half past nine o'clock,

Thomas Smith
Chief Justice.

Forty-Third Day.

Court meets pursuant to adjournment.

Present as upon Yesterday.

The record of Yesterdays proceedings is read & approved.

617 M. W. Stanton - Appellant,
Vs
Thomas B. Eaton, Appellee. } Appeal from Dev= Malills County.

This cause coming on upon the motion of said Appellant, for a rehearing of this cause, filed at a former day of this term, the same is argued by A. B. McMillin, Esq. for said Appellant, and by N. B. Field, Esq. for said Appellee, and submitted to the court, and the court being sufficiently advised in the premises, denies the same. - It is therefore considered and adjudged by the court, that said motion be and the same hereby is denied.

The Terrill-Log Railroad Company Plaintiff in Error.
664 Vs.
Josephine Decrant, Administratrix Defendant in Error. } Error to Santa Fe Co.

This cause coming on for further hearing, is argued by said attorneys, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

United States of America, Appellee.
679 Vs
Samuel L. Bachelor, Appellant. } Appeal from 1st District

This cause coming on for hearing upon the transcript of record, assignments of error, and briefs of counsel on file, the same is argued by A. A. Jones, Esq. Special United States Attorney for said Appellee, and by Chas. A. Spiess, Esq. attorney for said Appellant, and submitted to the court, and the court not being sufficiently advised

in the premises takes the same under advisement.

678 J. Q. Wiles, Appellant. } Appeal from
Vs } Co.
Frank Fagley, Appellee. }

It is ordered by the court, that this cause be, and the same hereby is continued until the next session of this court

It is ordered that court do now adjourn until tomorrow morning at half past nine o'clock.

Thomas Smith
Chief Justice

Forty-Fourth Day.

Court meets pursuant to adjournment.

Present as upon Yesterday, except the Hon. N. C. Collier.

The record of Yesterday's proceedings is read & approved.

= Rule. =

A motion for a rehearing after judgment can be presented only at the term at which the judgment is entered, unless by special leave granted during the term, and must be filed within ten days after such judgment, if the term shall so long continue.

No motion for rehearing shall be filed unless in the ground or grounds on said motion it shall distinctly point out, that some question decisive of the cause and only submitted by counsel has been overlooked by the court; or that the decision of the court is in conflict with some controling decision or provision by statute to which the attention of the court has not been called through the oversight or neglect of counsel.

606 Francis X. Eberle, Plaintiff in Error
vs
William Carmichael, et al, Defts in Error } Error to Socorro Co.

This cause having been argued by counsel and submitted to and taken under advisement by the court on a former day of the present term, upon the motion of said defendants in error, for a rehearing of said cause granted herein, at a former term, the court being now sufficiently advised in the premises announces its decision by Associate Justice Collier, Chief Justice Smith, concurring; Associate Justices Laughlin and Bantz, dissenting; reversing the judgment of the court below, and remanding said cause for a new trial, for reasons stated in the opinion of the court on file herein. It is therefore considered

and adjudged by the court, that the judgment of the District Court in this cause, in and for the county of Socorro, wherein this cause came into this court, be and the same is hereby reversed, and that this cause be and the same is hereby remanded to said District Court, with directions to grant a new trial thereof. It is further considered and adjudged that said Plaintiff in error do have and recover of said Defendants in error, his costs in this behalf expended, as well in the court below, as in this court expended, to be taxed, and that execution issue therefor.

677 United States of America. Appellee. } Appeal from
vs } 2nd District.
B. B. Spencer, Appellant.

This cause having been submitted to, and taken under advisement by the court, upon a former day of the present term, the court being now sufficiently advised in the premises announces it decision by Associate Justice Laughlin, Chief Justice Smith, and Associate Justices Hamilton and Baca, concurring reversing the judgment of the court below, and remanding said cause for a new trial, for reasons stated in the opinion of the court on file, It is therefore considered and adjudged by the court, that the judgment of the District Court of the Second Judicial District of the Territory of New Mexico, wherein this cause came into this court, be, and the same is hereby reversed, and that this cause be and the same is hereby remanded to said District Court with directions to grant a new trial thereof.

William C. Rogers, Plaintiff in Error, } Error to
656 vs } Santa Fe Co.
Joseph Richards, Defendant in Error.

This cause having been argued by counsel and submitted to and taken under advisement by the court upon a former day of this term, the court being now sufficiently advised in the premises, announce its de-

cision by Associate Justice Collier, Chief Justice Smith, and Associate Justices Hamilton and Pratt, concurring, affirming the judgment of the court below in this cause for reasons stated in the opinion of the court on file herein, and in accordance therewith, It is considered and adjudged by the court the judgment of the District Court in and for the County of Santa Fe, whence this cause came into this court, be, and the same hereby is affirmed, and that the said defendant in error do have and recover the possession of the property, herein, of said plaintiffs in error, It is further considered and adjudged by the court, that said defendant in error do have and recover of said plaintiffs in error his costs in this behalf expended, as well in the court below, as in this court to be taxed, and that execution issue therefor.

673 Early Times Distillery Company et al., Appellants, Vs Charles Zeiger et al., Appellees. } Appeal from Bernalillo Co.

This cause coming on for hearing upon the transcript of record, assignments of error, and briefs of counsel on file, the cause is argued by F. W. Clancy, Esq. for said appellants, and A. B. McMillen and W. B. Childers for said appellees, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

674 Early Times Distillery Company et al. Appellants, Vs Charles Zeiger et al. Appellees. } Appeal from Bernalillo Co.

This cause coming on for hearing, upon the transcript of record, assignment of error, and brief of counsel on file, the cause is argued by F. W. Clancy, Esq. for said appellants, and by A. B. McMillen, Esq. and W. B. Childers, Esq. for said appellees, and submitted to the Court, and the court not being sufficiently advised in the premises,

takes the same under advisement.

676 The Territory of New Mexico, Appellee. } Appeal from
Vs. } Bernalillo Co.
Eluterio Leyba, Appellant. }

Now comes the appellee by her Solicitor General, and said appellant though three times solemnly called comes not but make default, and it appearing to the court that said appellant as principal, and Mariano S. Otero, and Matias Sanchez, on the 2nd day of December, A. D. 1895, entered into a recognizance into the Territory of New Mexico, in the sum of Five Thousand Dollars, conditioned for the appearance of the said Eluterio Leyba on the first day of the July, A. D. 1896, term of this court, and that he would remain in attendance thereon from day to day, and receive the judgment of said court on his appeal, or until discharged by said court, the said Mariano S. Otero and Matias Sanchez, are each now three times solemnly called, and are required to produce the body of said appellant in open court, under the penalty of the forfeiture of said bond; and they come not, nor produce his body, but make default, and thereupon the court declares said bond forfeited. It is therefor considered and adjudged by the court, that said appelle, the Territory of New Mexico, recover of said Mariano S. Otero and Matias Sanchez, the sum of Five Thousand Dollars, the penalty of said bond. It is ordered that the clerk issue warrant for the arrest of said Appellant, Eluterio Leyba.

The United States Trust Company of New York, and C. W. Smith, Receiver of the property of the Atlantic and Pacific R. R. Co. Appellants.

670 Vs. } Appeal from
Atlantic and Pacific R. R. Co. et al. } Bernalillo
In the matter of the intervening } County.
petition of the Territory of New Mexico. Appellee.

This cause having been argued by counsel and submitted to and taken under advisement by the court at a former day of this term, and the court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith, Associate Justices Laughlin and Hamilton concurring, Associate Justice Pratt concurring as to the exceptions of the right-of-way, including the road-bed, ties, culverts, bridges, etc. but dissents as to the exceptions of the grounds necessary for station houses, work-shops, depots etc. of the improvements thereon:) reversing the decree of the court below in this cause, for reasons stated in the opinion of the court on file, - It is therefore considered, adjudged and decreed by the court, that the decree of the District Court within and for the Second Judicial District of the Territory of New Mexico, from which the appellants in this cause, appealed to this court, be and the same is reversed, and set aside; And in accordance therewith, It is ordered that the intervening petition of the Territory of New Mexico, the appellee herein, filed in said cause in said District Court, be and the same is hereby denied and dismissed, and that the said appellee take nothing thereby; and that the said, The United States Trust Company of New York, and C. W. Smith, as Receiver of the property of the Atlantic and Pacific Railroad Company, appellants herein, do have and recover of and from the said appellee, their costs in this behalf expended, including all their costs in the court below, as well as those in this court, and that execution issue therefor, - The court doth find further that the right-of-way of the Atlantic and Pacific Railroad Company, consists of one hundred feet in width on each side of its track, the road-bed, track, ties and rails, and all necessary grounds for station-buildings, work-shops, depots, machine shops, switches, side-tracks, turn-tables and

water-stations, and the road-bed, ties, rails, bridges, culverts, telegraph line, station-buildings, work-shops, depots, machine-shops, switches, side-tracks, turn-tables, water-tanks and improvements thereon, and attached thereto, for the purpose of operating, maintaining and enjoying said Rail-road and telegraph line, and the said right-of-way as above designated is exempt from taxation within the Territory of New Mexico, under and by virtue of the Act of Congress, approved July 27th, 1866. incorporating said Company. And the court doth further find, that the assessment for taxation of said right-of-way and necessary grounds for station buildings, work-shops, depots, machine-shops, switches, side-tracks, turntables and water stations, and of the improvements placed thereon in the County of Bernalillo, New Mexico, for the years 1893, 1894 and 1895 was and is illegal and void, and all taxes and penalties levied thereon for said years, were and are unlawfully and illegally levied and assessed, and are void.

It is ordered that court do now adjourn until Monday morning January 4th, 1897. at ten o'clock

Thomas Smith
Chief Justice

Forty-Fifth Day.

Court met pursuant to adjournment.

Present as upon Friday, December 18th, 1896, except the Honorable, Chief Justice Thomas Smith.

The record of Dec. 18th, 1896, is read and approved.

The Territory of New Mexico, Appellee,
vs
676 Eluterio Leyba, appellant. } Appeal from
} Bernalillo Co.

This cause having been argued by counsel, and submitted to and taken under advisement by the court, upon a former day of the present term, and the court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith, Associate Justices Laughlin, Bantz and Hamilton, concurring, affirming the judgment of the court below in this cause, for reasons stated in the opinion of the court on file. It is therefor considered and adjudged by the court, that the judgment of the District Court, in and for the County of Bernalillo, whence this cause came into this court be, and the same hereby is affirmed; And in accordance therewith, It is ordered, adjudged and decreed by the court, that the said appellant Eluterio Leyba, be and he hereby is committed to the custody of the Sheriff of Bernalillo County, to be by him conveyed to the Territorial Penitentiary, situated at Santa Fe, New Mexico, there and there deliver him the said Eluterio Leyba, into the custody of the Superintendent of the New Mexico Territorial Penitentiary, to be by him confined in said Penitentiary, at hard labor, for the full term of ten years, beginning with today, the 4th day of January, A. D. 1897. And it is further ordered and adjudged by the court, that the said appellant, Eluterio Leyba, pay the costs of this prosecution in the court below as well as in this court, to be taxed, and that execution issue therefor.

And it is further ordered, that a warrant of commitment issue against the said Eleuterio Leyba.

The Territory of New Mexico, appellee.
Vs
704 Felisa Apodaca. } Appeal from Bernalillo County.

Now comes the appellant by his attorney, B. S. Rodey, Esq: and moves the court to dismiss the appeal herein which was granted from the Second Judicial District Court, sitting in and for the County of Bernalillo, at the October term thereof, A. D. 1896, so that the appellant may be released from the close confinement he is now enduring, and be placed with the regular convicts of the New Mexico Territorial Penitentiary, and the court being sufficiently advised in the premises, grants said motion.- It is therefore considered and adjudged by the court, that the said appeal, granted as aforesaid, be, and the same hereby is dismissed, and that said appellant Felisa Apodaca, be released from the close confinement he is now enduring, and be placed with the regular convicts of the New Mexico Territorial Penitentiary, for the full term of twenty-five years, beginning with to-day.- It is further considered and adjudged by the court, that the said appellant Felisa Apodaca, be, and he hereby is committed to the custody of the Superintendent of the New Mexico Territorial Penitentiary, to be by him safely and securely confined in the said New Mexico Territorial Penitentiary, situated at Santa Fe, New Mexico, for the full term of twenty-five years, beginning with to-day, the 4th day of January, A. D. 1897.- It is further considered and adjudged by the court, that the said appellant Felisa Apodaca, pay the costs of this prosecution, as well in the court below, as in this court, to be taxed, and that execution issue therefor. And it is ordered that warrant of commitment issue against said appellant Felisa Apodaca.

It is ordered that court do now adjourn until Monday morning February 1st. 1897.

Thomas Smith
Chief Justice

Forty-Sixth Day.

Court meets pursuant to adjournment.

Present, the Honorable Thomas Smith, Chief Justice, and all the Associate Justices, except the Honorable H. B. Hamilton.

The record of Monday, January 4th, 1897, is read and approved.

On motion of E. A. Fiske, Esq= It is ordered by the court, that Quintin A. Martinez, a member of the bar of the First Judicial District bt, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court and takes the official oath prescribed by the rules of this court.

On motion of Francis Downs, Esq. It is ordered by the court that William J. McPherson, a member of the bar of the First Judicial District, be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court, and takes the official oath prescribed by the rules of this court.

On motion of W. H. Pope, Esq= It is ordered by the court that Ollin C. Smith, a member of the bar of the Fourth Judicial District, be, and he hereby is admitted to practice as an attorney, solicitor and counsellor of this court, and he thereupon appears in open court, and takes the official oath prescribed by the rules of this court.

It is ordered by the court, that Geneviv Sandoval, be, and he hereby is appointed Bailiff to the court, and he appears in open court, and is sworn as such.

404 Andres Lena, et al, Plaintiffs in Error,
Vs
Gross, Blackwell and Company,
Defendants in Error.
} Error to San Miguel Co.

On motion of C. A. Fisher, Esq., attorney for the defendants in error herein, - It is ordered by the court, that the plaintiffs in error be, and they hereby are ruled to file briefs herein, within sixty days from this date.

643 Rio Grande Irrigation and Colonization Company, Plaintiff in Error,
Vs
Charles H. Gildersleeve,
} Error to Bernalillo Co.

By consent of the said parties by their respective attorneys, this cause is now submitted to the court without oral argument, upon the transcript of record, assignment of errors, and briefs of counsel on file, and the court not being sufficiently advised in the premises takes the same under advisement.

705 Raton Water Works Company, Appellee,
Vs
Town of Raton, appellant,
} Appeal from Colfax Co.

By agreement of the said parties by their respective attorneys, H. L. Warren, Esq. appearing for said Appellee, and Jacob H. Crist, Esq. appearing for said appellant, this cause is now submitted to the court without argument, upon the transcript of record, assignments of error and briefs of counsel on file, and the court not being sufficiently advised in the premises takes the same under advisement.

574 John G. Albright, et al, Appellees,
Vs.
Texas, Santa Fe and Northern Railroad Company,
} Appeal from Bernalillo Co.

Now comes the defendants in the above entitled cause, and suggests the death of Albert Grunsfeld, befor the entry of the decree of this court in this cause, and error of the appellees herein, and further suggests to the court, that the cause of action herein sued

son by the said J. G. Albright, in this cause had been assigned before the entry of the decree of this court in this cause to A. W. Rice, and the said defendants thereupon move this court to enter an order in this cause, making said A. W. Rice, assignee as aforesaid, party to this cause in the place of said J. G. Albright, and making W. B. Childers, Esq. Hildegard Grunsfeld and Alfred Grunsfeld, executors of the estate of Albert Grunsfeld, deceased, parties to said cause, in the place of said Albert Grunsfeld, deceased, and that execution issue against the said Rice, and the said executors of the said Albert Grunsfeld, deceased, for the costs herein, to be taxed; and comes also the said W. B. Childers, Esq. for himself as executor as aforesaid, and as solicitor for the said Rice, and said other executors, and in open court consents that said order be made and said motion granted, and that said executors and said Rice, be so as aforesaid made parties to this cause, It is therefore ordered, adjudged and decreed, that the said W. B. Childers, Esq. Hildegard Grunsfeld and Alfred Grunsfeld, executors of the said Albert Grunsfeld, deceased, be, and they are hereby made parties to this cause for and in place of said Albert Grunsfeld, deceased, and it is further ordered, adjudged and decreed that the said A. W. Rice, be, and he is hereby made a party to this cause for and in the place of said J. G. Albright, and it is further ordered, adjudged and decreed, that the said defendants do have and recover of the said W. B. Childers, Esq. Hildegard Grunsfeld and Alfred Grunsfeld, executors of the estate of Albert Grunsfeld, deceased, and the said A. W. Rice, their costs of appeal, of the court below, including the costs of the transcript on appeal to this court, as well as the costs of this court, in this behalf expended, to be taxed, and that execution issue therefor. And it is further ordered, adjudged, and decreed, that the decree heretofore entered in this cause in this court, on the 1st day of September, A. D. 1896, be, and the same

is hereby modified and amended in all the foregoing matters and respects.

Upon motion of the United States Attorney for the Territory of New Mexico, W. B. Childers, Esq., the following rules governing and regulating the issuance and service of process of U. S. Commissioners, appointed in this Territory are adopted and promulgated.

(1) United States Commissioners, shall hereafter send or deliver all warrants issued by them to the United States Marshal for the Territory, and no warrants shall be served by any deputy marshal unless received directly from the marshals office, unless the delay incident to the transmission of the warrant to the marshal, and the delivery by it by him to his deputy would defeat the ends of justice. In such cases of emergency, commissioners may place the writs in the hands of the deputy marshal most accessible, and an immediate report of the issuance of the same shall be made by the deputy marshal to the marshal, and by the commissioner to the United States Attorney.

(2) In all cases of prosecutions for offences under "the Act of Congress of March third, A. D. 1887, relating to adultery and other crimes, commonly called the Edmunds Act", before any writ shall be issued by any commissioner the sworn complaint, together with the facts in the case shall be forwarded to the United States Attorney, and his approval of the issuance of such writ by the commissioner obtained before its delivery to the United States Marshal for service, and said commissioner shall also state to the United States Attorney in writing, some good reason for the apprehension and commitment of the defendant in advance of an investigation of the case by the Grand Jury. No such writ shall be served until its issuance has been approved by the United States Attorney, except in cases of emergency

where there is imminent danger of the escape of the defendant, prior to the meeting of the grand jury.

(3) In all cases of prosecutions under the Internal Revenue Laws the warrant, if issued otherwise, than at the instance of the United States Attorney, the collector of internal revenue, or his deputy or agent, must be upon a sworn complaint setting forth the facts constituting the offense, and allege in addition thereto that the facts are within the personal knowledge of the affiant, and in all cases, such warrant, when issued otherwise than at the instance of the officers above mentioned, must, before servicd and arrest, be approved by one of the judges of the Supreme Court, or the attorney of the United States, except in case of emergency, where there would be great danger of the escape of the defendant, and in such cases such approval must be obtained immediately after the issuance and service of such warrant.

Whereas, on the 6th day of August, A. D. 1896. the account of Guy H. Herbert, United States Commissioner for the Third Judicial District of New Mexico, was approved by this court, in the sum of seventy and 10/100 dollars; and whereas, it now appears to the court, that the amount as charged in said account, was and is One hundred and twenty-nine and 50/100 dollars, and that said account should been approved in said amount. It is therefor ordered, that said account be, and the same is hereby approved in the sum of one hundred and twenty-nine and 50/100 dollars, this first day of February A. D. 1897.

Whereas, Geo. L. Wyllys, Clerk of the First Judicial Court, of the Territory of New Mexico, has rendered to this court an account for his official services for the quarter ending March 31st, 1897, with the items

thereof, and in the presence of William B. Childers, Esq., United States Attorney for New Mexico, and has by his oath attached to the account, proved to the satisfaction of the court, that the services therein charged have been actually and necessarily performed as therein stated, and whereas, said charges appear to be just and according to law. It is hereby ordered that said account amounting to $69.48. be, and the same is hereby approved, and it is hereby certified, that upon the days for which per diem is charged, that the court was opened for business and business was actually transacted in court, or the clerk attended as provided by sections 583-584-671-or 672, Revised Statutes, United States.

Western Homestead and Irrigation Company, Garnishee of Jesse Anthony, Plaintiff in Error,

vs

First National Bank of Albuquerque, } Error to Bernalillo Co.

This cause having been argued by counsel, and submitted to and taken under advisement by the court upon a former day of the present term, the court now being sufficiently advised in the premises, announces its decision by Associate Justice Laughlin, Chief Justice Smith, and Associate Justice Baldz, concurring, affirming the judgment of the court below in this cause, for reasons stated in the opinion of the court on file. It is therefor considered and adjudged by the court that the judgment of the District Court, in and for the county of Bernalillo, whence this cause came into this court, be and the same hereby is affirmed, and in accordance therewith. It is further considered and adjudged by the court, that the said defendant in error First National Bank of Albuquerque do have and recover of said Western Homestead and Irrigation Company, Garnishee of Jesse Anthony, the plaintiff in error herein, the sum of two hundred and eighty-eight dollars and fifty four cents.

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together with the costs of the garnishment proceedings amounting to thirty six dollars and sixty cents, together with the costs in the court below as well as in this court to be taxed, and that execution issue therefor.

Francisco Gonzales y Bongo.
Antonio Gonzales y Bongo.
Lauriano Alarid and Patricio Valencia.
Petitioners

700 Vs.

William A Cunningham Sheriff, etc.
Respondent.

In re.

700 Application of Francisco Gonzales y Bongo. Antonio Gonzales y Bongo. Lauriano Alarid and Patricio Valencia. Habeas Corpus.

Whereas, there has been lately filed in the office of the clerk of this court the mandate of the Supreme Court of the United States, in the above entitled cause, which is in the words and figures as follows, to-wit:-

United States of America. - SS.
The President of the United States of America.
To the Honorable the Judges of the Supreme Court of the Territory of New Mexico.
Greeting.

Whereas, lately in the Supreme Court, of the Territory of New Mexico, before you, or some of you, in a cause, entitled, In the matter of the petition of Francisco Gonzales y Bongo, Antonio Gonzales y Bongo, Lauriano Alarid, and Patricio Valencia, for a writ of habeas corpus, No. 700, wherein the order of the said Supreme Court, entered in said cause, on the 25th. day of September, A. D. 1896, is in the following words, Viz:- "In re. Application of Francisco Gonzales y Bongo. Antonio Gonzales y Bongo. Lauriano Alarid and Patricio Valencia. 700. Habeas Corpus. Comes now William A. Cunningham, Sheriff of the

county of Santa Fe, in the Territory of New Mex-
ico, and in obedience to the writ of habeas
corpus heretofore issued herein, and produces
the bodies of the said Francisco Gonzales y
Bonnyo, Antonio Gonzales y Bonnyo, Luciano
Alarid and Patricio Valencia, and files herein
his return to the writ for cause of the de-
tention by him of the aforesaid petitioners;
and comes also the said petitioners and files
their answer to said return; and this cause
being submitted to the court, upon the pe-
tition, writ, and the return thereto, and the
answer of said petitioners to said return, and
it appearing therefrom that said petitioners
are committed and detained in the custody
of the said William A. Cunningham, Sheriff
of the county of Santa Fe, in the Territory
aforesaid, by virtue of the final judgment,
conviction, and sentence of the District Court,
within and for the said County of Santa
Fe, and under and by virtue of the final
judgment and sentence of the Supreme
Court of the Territory of New Mexico, af-
firming the said judgment, conviction,
and sentence of the said District Court,
as set forth in the said return, It is
hereby ordered that the said writ of habeas
corpus, be, and the same is hereby, discharg-
ed, and that the said Francisco Gonzales
y Bonnyo, Antonio Gonzales y Bonnyo, Lu-
riano Alarid and Patricio Valencia, be, and
they hereby are, remanded to the custody
of the said Sheriff, to be dealt with in pur-
suance of the judgment, conviction, and
sentence aforesaid." as by the inspection
of the transcript of the record of the
said Supreme Court, which was brought
into the Supreme Court of the United
States by virtue of an appeal agreeably
to the act of Congress in such case made
and provided, fully and at large appears.

And Whereas, in the present term
of October, in the Year of Our Lord, One
Thousand eight hundred and ninety-six
the said cause came on to be heard before

the said Supreme Court, on the said transcript of record, and on motions to dismiss or affirm which were argued by counsel.

On consideration whereof, It is now here ordered, adjudged and decreed by this court that the order of the said Supreme Court, in this cause be, and the same is hereby, affirmed with costs; and that the said William T. Cunningham, Sheriff of Santa Fe County, Territory of New Mexico, recover against the said Francisco Gonzales y Bonngo, Antonio Gonzales y Bonngo, Lauriano Alarid, and Patricio Valencia, one hundred and sixty-nine dollars for his costs herein expended, and have execution therefor. December 21, 1896.

You, therefor, are hereby commanded that such execution and proceedings be had in said cause, as according to right and justice, and the laws of the United States, ought to be had, the said appeal not withstanding.

Witness the Honorable, Melville W. Fuller, Chief Justice of the United States, the twenty-sixth day of January, in the year of our Lord One Thousand eight hundred and ninety-seven.

James H. McKenney,
Clerk of the Supreme Court of the United States.

(Seal)

Costs of Cunningham Sheriff, &c.	
Clerk	$70.50
Printing records,	$78.50
Attorney	$20.00
	$169.00

And Whereas, the Solicitor General of the Territory of New Mexico, has moved this court for an order in conformity with the said mandate, and the said petitioners, Francisco Gonzales y Bonngo, Antonio Gonzales y Bonngo, Lauriano Alarid and Patricio Valencia, being present in court and attended by their counsel, and the said Territory of New Mexico, bring

represented by her Solicitor General, John P. Victory, Esq, and the court being sufficiently advised in the premises; It is therefor considered, ordered and adjudged that the said petitioners the said Francisco Gonzales y Borrego, Antonio Gonzales y Borrego, Lauriano Alarid and Patricio Valencia, be and they hereby are remanded respectively to the custody of the Sheriff of the County of Santa Fe, Territory of New Mexico, to be held and dealt with in pursuance of law.

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Francisco Gonzales y Borrego,
Antonio Gonzales y Borrego,
Lauriano Alarid and Patricio
Valencia,
Vs
The Territory of New Mexico,

Error to Santa Fe County.

Defendant in Error.

This cause coming on to be heard at this day upon the motion and application of the defendant in error by the Solicitor General of the Territory of New Mexico, for an order fixing the date of execution of the judgment and sentence of the court heretofore rendered and made herein, comes the defendant in error by John P. Victory, Esq, the Solicitor General aforesaid and comes the plaintiffs in error Francisco Gonzales y Borrego, Antonio Gonzales y Borrego, Lauriano Alarid, and Patricio Valencia, respectively, in their own proper person, and attended by their counsel, Charles A. Spiess, Esq, and it appearing to the court, that by reason of the stay of execution of the said judgment and sentence heretofore ordered by the Supreme Court of the United States upon the petition, and application of the said parties the date for the execution of the judgment and sentence of this court in this cause rendered and made on September 24th, 1896, has passed, and elapsed, and the court now being fully informed, and advised in

the premises, It is by the court here ordered, adjudged and considered that the said Francisco Gonzales y Borrego, Antonio Gonzales y Borrego, Lauriano Alarid and Patricio Valencia be and they and each of them hereby are committed to the custody of the sheriff of the county of Santa Fe, New Mexico and be by him safely and securely confined in the common jail in the county of Santa Fe until Tuesday the twenty third day of February A.D. Eighteen hundred and ninety seven and on said day to be thence conveyed to some suitable spot within the county of Santa Fe and between the hours of six o'clock in the forenoon and five o'clock in the afternoon of said day they the said Francisco Gonzales y Borrego, Antonio Gonzales y Borrego, Lauriano Alarid and Patricio Valencia and each of them be by the said Sheriff hanged by the neck until they and each of them be dead and it is further ordered and adjudged by the court that a duly certified copy of this judgment and sentence and of the said judgment order and sentence herein made and entered on the 24th day of September A.D. 1896 attested by the clerk of this court under the seal thereof shall be the warrant to the said Sheriff for the due execution hereof.

It is ordered that court do now adjourn until Monday, March 1st 1897, at ten o'clock, A. M. of said day.

Thomas Smith
Chief Justice

Forty seventh day

Court meets pursuant to adjournment.

Present as upon February 1st 1897.

The record of proceedings is read and approved.

No 711. Neill B. Field
Plff in Error
vs
John S. Cain
Deft in Error
} Error to District Court of Santa Fe County

Now comes N. L. Warren Esq. and waives the issuing and service of citation and enters his appearance for the defendant in error herein.

~~Lyndonville National Bank
Plff in Error
vs
Stephen M. Folsom
Deft in Error
Error to District Court of Bernalillo County~~

~~569.~~

~~This cause having been argued by counsel at a former term of this Court on the petition for rehearing and submitted to and taken under advisement announced its decision by Chief Justice Smith the Associate Justices concurring, denying the same. It is therefore considered and adjudged by the Court that the petition for rehearing be and the same is hereby denied. And that the motion to recall the judgment heretofore entered herein be, and the same is hereby denied.~~

Francis X Eberle
Plff in Error
vs.
Williams Carmichael et al
Defts in Error
} Error to District Court of Socorro County

606

This cause having been submitted on a motion to amend the record and make an entry nunc pro tunc granting the defendants in error a rehearing, on a former day of this term, the court announced its decision by Chief Justice Smith, the Associate Justices concurring, denying said motion, it is therefore considered and adjudged by the Court that the motion to amend the record and to make an entry nunc pro tunc, be, and the same hereby is denied.

670

The United States Trust Company of New York and E. W. Smith, Receiver of the property of the Atlantic and Pacific Rail Road Company
appellants.

vs.

Atlantic and Pacific Rail Road Company
In the matter of the Determining Petition
of the Territory of New Mexico.
Appellee

} Appeal from district Court of Bernalillo County.

This cause coming on to be heard on the application of Counsel for appellees for leave to amend its motion for rehearing heretofore filed, by filing a certificate of Counsel as provided by the rule of this court, It is ordered by the Court that said appellee be and it is hereby granted leave to file said certificate of Counsel, and it is further ordered by the Court that the motion for rehearing herein be and the same is hereby denied, and thereupon the appellee moves the Court for an appeal from the Judgment and decision of this Court to the Supreme Court of the United States and the Court being fully advised in the premises grants said appeal It is therefore considered and adjudged by the Court that the Appellee herein, the Territory of New Mexico, be and it is allowed an appeal from the Judgment and decision of this Court to the Supreme Court of the United States.

584

First National Bank of Albuquerque et al.
appellees

vs.

John A Lee, Executor, et al
appellants.

} Appeal from district Court of Bernalillo County.

This cause coming on to be heard on the motion for rehearing herein filed, and the Court being fully advised in the premises denies the same. It is therefore considered and adjudged by the Court that the motion for a rehearing herein be, and the same is hereby denied.

679.

The United States of America
appellee

vs.

Samuel L Batchelder
appellant

} appeal from First Judicial District Court.

This cause having been argued by Counsel and

submitted to and taken under advisement by the Court upon a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Bantz. Chief Justice Smith and Associate Justice Collier concurring, Associate Justice Hamilton dissenting, affirming the Judgment of the Court below in this cause, for reasons stated in the opinion of this Court on file, It is therefore considered and adjudged by the Court, that the Judgment of the District Court of the First Judicial District in the Territory of New Mexico, whence this cause came into this Court be and the same hereby is affirmed; And in accordance therewith, It is ordered, adjudged and decreed by this Court that the said appellant, Samuel L Batchelder be and he hereby is commanded to the custody of the United States Marshal, of New Mexico, to be by him conveyed to the United States Jail, situated at Santa Fe New Mexico, to be there imprisoned and confined for the full term of one month, beginning with the day of his confinement and that a warrant of commitment issue against him; and it is further considered and adjudged by the Court, that the said appellant, Samuel L Batchelder, pay the costs of this prosecution against him to be taxed, and that execution issue therefor, and it is further considered and adjudged by the Court that the said appellant Samuel L Batchelder do make unto the said appellee the United States of America the full sum of one hundred and twenty dollars the amount of this fine so assessed against him, and that execution issue therefor.

643

The Rio Grande Irigation and Colonization Company
Plff in Error
vs
Charles H. Gildersleeve
Deft in error

} Error to District Court of Bernalillo County.

This Cause having been submitted, on briefs, and taken under advisement by the Court on a former day of the present Term of this Court and the Court being now sufficiently advised in the premises announces its decision by Associate Justice Bantz. Chief Justice Smith and Associate Justice Laughlin concurring, affirming the Judgment of the lower

Day, A. D. 189

Court
for reasons stated in the Opinion of the Court on file,
It is therefore considered and adjudged by the Court
that Judgment herein of the District Court of the County
of Bernalillo, wherein this cause came into this Court
be, and the same hereby is affirmed, and that in
accordance therewith, the said defendant in error, Charles
H Gildersleeve, do have and recover of the said plain-
tiff in error, the Rio Grande Irrigation and Colonization
Company the sum of Seventy Six Thousand three hundred and
Ninety three dollars and eighty cents, with interest thereon
from the 10th day of September, A D 1894 at the rate of
twelve per centum per annum, together with costs there-
on both in the Court below as well as in this Court, in
this behalf expended, to be taxed, for which let execution
issue.

Whereas, Geo L Hyllyer late Clerk of the First Judicial
District Court of the Territory of New Mexico, has rendered
to this Court an account for his official services
for the quarter ending December 31st A D 1896. with
the items thereof, and in the presence of Hon W. B. Childers
United States Attorney for New Mexico, and has by his
oath attached to the account, proved to the satisfaction
of the Court that the services therein charged have been
actually and necessarily performed as therein stated,
And whereas said charges appear to be just and
according to law; It is hereby ordered that said account
amounting to $214.50 be, and the same is hereby approved.

Whereas, Geo L Hyllyer late Clerk of the First Judicial
District Court of the Territory of New Mexico, has rendered
to this Court an account for his official services for
the Quarter ending March 31st. 1897. with the items
thereof and in the presence of Hon W. B Childers
United States Attorney for New Mexico, and has by
his oath attached to the account, proved to the satis-
faction of the Court that the services therein charged
have been actually and necessarily performed as
therein stated, and whereas said charges appear to
be just and according to law; It is hereby ordered
that said account amounting to $68.68 be, and
the same is hereby approved. And it is hereby
certified, that upon the days for which per diem
is charged, that Court was opened for business
and business was actually transacted in Court,

or the Clerk attended as provided by Sections 583-584 671. or 672, Revised Statutes of the N. M.

On motion of A. B. Fall. Esq. It is ordered by the Court that John Morrow a member of the bar of the Fourth Judicial District be, and he hereby is admitted to practice as an Attorney, Solicitor and Counsellor of this Court, and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

On Motion of A. B. Fall, Esq, It is ordered by the Court that U. S. Bateman, a member of the bar of the Fifth Judicial District be, and he hereby is admitted to practice as an Attorney, Solicitor and Counsellor of this Court and he thereupon appears in Open Court and takes the official oath prescribed by the rules of this Court.

Lyndonville National Bank
Plff in Error
vs.
Stephen M Folsom
Deft in Error.
} Error to District Court of Bernalillo County.

569

This cause having been argued and submitted to and taken under advisement by the Court, at a former term of this Court, on the motion to vacate the Judgment heretofore entered herein, and the Court being now sufficiently advised in the premises announces its decision, by Chief Justice Smith the Associate Justices concurring, that the Court adheres to its former decision and denies the motion to vacate the Judgment heretofore entered herein, It is therefore considered and adjudged by the Court that it adheres to its former decision in this cause and that the motion to vacate the Judgment heretofore entered herein be, and the same is denied.

Rio Grande Irrigation and Colonization Company,
Plff in Error
vs
Charles A Gildersleeve
Deft in Error
} Error to District Court of Bernalillo County

643

It is ordered by the Court

that the Plaintiff in Error in this cause be, and it is allowed twenty days in which to file a motion for rehearing herein.

It is ordered that Court do now adjourn until Thursday, March 25th at ten oclock in the forenoon of said day.

Thomas Smith
Chief Justice.

The Governor of the Territory of New Mexico,
To all to whom these Presents Shall come, Greting.
Know ye, That reposing Special Trust and confidence in the ability and integrity of A.B. Fall. I do hereby commission him Solicitor General of the Territory of New Mexico, from the date of Qualification to qualify within sixty days. The said A. B. Fall is therefore carefully and diligently to discharge the duties of said office, by doing and performing all manner of things thereunto belonging in compliance with law. This Commission to continue in force during the Time prescribed by law.
In Testimony Whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the Territory of New Mexico, Done at Santa Fe this 2nd day of March in the year of our Lord One Thousand Eight Hundred and Ninety Seven, and of the Territory Forty seventh, and of the Independence of the United States the One Hundred and Twenty first.

Lorion Miller
Acting Governor of New Mexico

By the Governor-
Lorion Miller
Secretary of the Territory.

Seal

Forty eighth Day

Court meets pursuant to adjournment.

Present as up March 1st 1897 except the Hon Gideon D Bantz

The record of proceedings is read and approved.

717. Ex Parte,
In the Matter of the
Petition of Leonard Lewisohn et al } For a writ of Certiorari.

Now comes Francis Downs Esq. attorney for the petitioners herein and moves the Court for an order for a writ of Certiorari, and the Court being sufficiently advised, grants said motion. It is therefore ordered by the Court that a writ of Certiorari issue to the District Court of the First Judicial District of the Territory of New Mexico, to prepare and send up to this Court a duly authenticated transcript of the proceedings had in said Court in cause No 3578, M. A. Otero et al. plaintiffs vs. Leonard Lewisohn et al. defendants, and in cause No 3579. J. B. Catron et al, plaintiffs vs Leonard Lewisohn et al, defendants, on the docket of said District Court, on or before the first day of the next regular term of this Court.

Rules Governing the issuance of Process in United States Cases by Clerks of the District Courts.

Whenever process in any case in which the United States is a party shall be issued by any Clerk of any District Court in this Territory, such process shall be delivered or sent by the Clerk to the Marshal for the Territory, unless otherwise ordered by the United States Attorney, or that immediate service is necessary, in which event such process may be delivered to the Deputy designated by the Marshal who may be most expeditiously reached. When process is sent or delivered to a Deputy Marshal, it shall be the duty of the Clerk to immediately report the same to the Marshal's office giving sufficient information to enable the Marshal to enter the same upon his —

Day. A. D. 189

Docket

It is ordered that Court do now adjourn until Monday, April 5th 1897. at ten o'clock in the forenoon of said day.

Thomas Smith
Acting Justice

At Santa Fe New Mexico.

April 5th 1897.

Court was not opened. to day owing to the fact that there was not a Quorum present

Geo. L. Hyllyer
Clerk

Day. A. D. 189

At Santa Fe. New Mexico. June 6th 1894.

United States of America.
Supreme Court of the Territory of New Mexico.
To W. H. Willcox of Wagon Mound in the County of Mora Territory of New Mexico. You are hereby appointed United States Court Commissioner at Wagon Mound in the Fourth Judicial District, to administer, on application by the proper persons the oaths in preliminary proofs required under the homestead, timber culture and desert land affidavits and final laws when the applicant for the benefit of these laws, is prevented from personal attendance at the District Land Office, by reason of distance, bodily infirmity, or other good cause.
In performing the duties of this office, you will be governed by the laws above referred to, the act of Congress of May 24, 1890 (26, Stat at large, page 121) and the rules of the general Land Office.
Dated at Las Vegas this Fifth day of June ad 1897.

Thomas Smith
Chief Justice

Seal Attest
Geo. L. Hadley—
Clerk.

United States of America
Territory of New Mexico
County of Mora

I W. H. Willcox, do solemnly swear that I will support the Constitution of the United States, and will, to the best of my knowledge and ability, discharge the duties of the office of United States Commissioner, in the Fourth Judicial District of the Territory of New Mexico, to administer the oaths in preliminary affidavits and final proofs required under the Homestead, Timber Culture and desert land laws. So help me God.

W. H. Willcox

Sworn to and subscribed before me this 7th day of June ad 1897.

Seal

A. H. Wiest
Notary Public
My Comsn expires Oct 16th 1900.

Day.

A. D. 189

At Santa Fe New Mexico. July 23rd 189

In Re
Application of Roe Chung } For writ of Prohibition.
For a writ of Prohibition

Let the Rule to show cause why a writ of Prohibition should not be issued against the said A. N. Ribble, Justice of the Peace of Precinct No 26. County of Bernalillo, Territory of New Mexico, as prayed for in the said Petition, said Rule to be returnable at 10 o'clock A. M. July 26th 189 before the Supreme Court of the Territory of New Mexico to be begun and held in the City of Santa Fe on said date. This 19th day of July 1895.

A. B. Hamilton
Associate Justice etc.

First Day. Monday July 26th A. D. 1897.

At a regular term of the Supreme Court of the Territory of New Mexico, begun and held at Santa Fe, New Mexico, the seat of government of said Territory, on the last Monday of July 1897, the same being Monday, July 26th AD 1897.

Present the Honorable N. C. Collier, associate Justice
Honorable N. B Laughlin associate Justice
W. B. Childers, United States attorney
Edward L. Hall, United States Marshal
Geo. L. Hyllyer, Clerk of the Supreme Court

There being no quorum it is ordered by the Court that this Court stand adjourned until tomorrow morning at 10 oclock.

Thomas Smith
Interpreting Spanish.

Second Day. Tuesday. July 27th 1897.

Court meets pursuant to adjournment.

Present.

Honorable N. C. Collier. Associate Justice
Honorable N. B Laughlin Associate Justice
Honorable G. D. Bantz Associate Justice
Honorable H. B Hamilton Associate Justice
W. B. Childers. United States attorney
Edward L Hall. United States Marshal
A. B. Fall. Solicitor General for Territory
Geo L Wyllys. Clerk.

The record of yesterday's proceedings is read and approved.

It is ordered by the Court that Geo B Brady be and he is hereby appointed Crier for the Court, and he thereupon appears in open court and is duly sworn as such.

It is ordered by the Court. that Fernando Delgado be and he is hereby appointed Bailiff to the Court and he thereupon appears in open Court as is duly sworn as such.

On motion of James. G. Filch Esq. It is ordered by the Court that A. C. Campbell, a member of the bar of the Fifth Judicial District, be, and he hereby is admitted to practice as an attorney, Solicitor and Counsellor of this Court and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

On Motion of H. L. Warren Esq. It is ordered by the Court that A. H. Wycoff, a member of the bar of the Second Judicial District, be, and he hereby is admitted to practice as an Attorney, Solicitor and Counsellor of this Court and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

On Motion of H. L. Warren Esq. It is ordered by the Court that Horton Moore, a member of the bar of the Second Judicial District be, and he hereby is admitted to practice

as an attorney, solicitor and counsellor of this Court, and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

225 Barbara Mora. appellant vs Valentine Johnson et al appellees } Appeal from Bernalillo County.

In accordance with an order of the Court entered herein at the last term of this court. It is now ordered that this cause be and the same hereby is dismissed without prejudice.

404 Andres Sena et al Plffs in Error vs Gross, Blackwell & Co Defts in Error } Error to San Miguel County.

It is ordered by the Court that this cause be and the same hereby is taken under advisement upon briefs filed herein.

678 J. L. Wills. appellant vs Frank Fagley et al appellees } Appeal from Bernalillo County.

Now comes the appellant by his attorney H. B Childers Esq. and says to the Court here that he will not further prosecute his appeal herein but dismisses the same. It is therefore considered and adjudged by the Court that the appeal herein be and the same hereby is dismissed and that the appellees herein do have and recover their costs in this behalf expended, of the appellant herein, to be taxed and that execution issue therefor.

680 M. W. Flournoy et al appellants vs Bullock, Baker & Co et al. appellees. } Appeal from Bernalillo

It is ordered by the Court on motion, that this cause be and the same is hereby set for hearing on August 20th 1897.

Denver & Rio Grande Rail Road Company
Plff in Error
vs
The United States of America
Deft in Error
} Error to First Judicial District

On motion it is ordered by the Court that this cause be and the same is set for hearing on August 12th 1897.

720

Denver & Rio Grande Rail Road Company
Plff in Error
vs
The United States of America
Deft in Error
} Error to First Judicial District

On motion it is ordered by the Court that this cause be and the same is set for hearing on August 12th 1897.

721.

United States of America
Plff in Error
vs
The Denver & Rio Grande Rail Road Company.
Deft in Error
} Error to First Judicial District Court.

On motion it is ordered by the Court that this cause be and the same is set for hearing on August 12th 1897.

731

On this 27th day of July A D 1897, came on to be heard before the Honorable Supreme Court of the Territory of New Mexico, the account of J. O. Cameron, a United States Commissioner, for his services against the United States to be allowed; and thereupon it appearing to the Court from the account of the said J. O. Cameron, United States Commissioner for this Court, duly allowed, that there is due to the said J. O. Cameron, for his fees and costs for his services rendered from the third day of December A D 1896 to the first day of July A D 1897. inclusive, the sum of Fourteen and 50/100 Dollars. which account for such services, appearing to the Court to have been examined and approved by W. B Childers, United States Attorney for New Mexico, for the Amount as claimed therein, and it appearing

to the Court that the services for which fees and costs are demanded have been necessarily and actually performed as therein stated. and, Whereas, such charges appearing to be just and according to law, it is therefore ordered by the Court that said account amounting to the sum of Fourteen and 50/100 Dollars be and the same is hereby approved and allowed.

Whereas Manuel B de Baca, United States Commissioner for the Fourth District of New Mexico has forwarded an account for his official services for the quarter ending June 30th A D 1897. duly certified by oath attached to the account, and the District Attorney has submitted said account for approval in open Court, and it appearing to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated, and whereas said charges appeared to be just and according to law. it is ordered that said account, amounting to Two Hundred and Seventy nine dollars and fifty cents. &c, and the same is hereby approved this 27th day of July A D 1897.

740 In Re. Application of Roe Chung. } For writ of Prohibition

Now comes the defendant and moves the Court to grant the rule to show cause why a writ of Prohibition should not issue for reasons stated in said motion, and the Court having heard Counsel and being sufficiently advised in the premises overruled the same and thereupon by agreement of Counsel this cause upon its merits is submitted to the Court, on briefs, the said petitioner to file his brief within five days from to day and the said defendant to have five days after the filing of said brief to answer the same.

610 Charles A Robinson Plff. in Error vs The Territory of New Mexico Deft in Error } Error to District Court of Socorro County.

This cause coming on to be heard upon the motion to dismiss the writ of error herein and the Court being sufficiently advised in the premises, grants said motion It is

thereon considered and adjudged that this cause be and the same is hereby dismissed and it is further considered and adjudged that the defendant in error do have and recover of Plaintiff in error her costs in this behalf expended to be taxed, for which let execution issue.

Whereas, Don A. Kedzie, United States Commissioner for the Third Judicial District of New Mexico, has forwarded an account for his official services for the quarter ending March 31st 1897 duly certified by oath, attached to the account, and the District Attorney has submitted said account for approval in open Court and it appearing to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated, and whereas said charges appear to be just and according to law, It is ordered that said account amounting to Seventy one and 10/100 Dollars be and and the same is hereby approved. this 27th day of July 1897.

Whereas Don A. Kedzie, United States Commissioner for the Third Judicial District of New Mexico, has forwarded an account for his official services for the quarter ending September 30th 1896. duly certified on oath attached to the account, and the District Attorney has submitted said account for approval in open Court and it appearing to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated and whereas said charges appear to be just and according to law; It is ordered that said account, amounting to Thirty three and 70/100 Dollars, be and the same is hereby approved this 27th day of July 1897.

Whereas, B. F. McKeyes, United States Commissioner for the Third Judicial District of New Mexico has forwarded an accounting for his official services for the quarter ending March 31st A.D. 1893. duly certified by oath, attached to the account, and the District Attorney has submitted said account for approval in open Court and it appearing to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated, and whereas said charges appear to be just and according

to law; It is ordered that said account, amounting to One hundred & Eighty nine Dollars, be and the same is hereby approved this 27th day of July A.D. 1897.

Whereas, B. J. McKeyes, United States Commissioner for the Third Judicial District of New Mexico, has forwarded an accounting for his official services for the quarter ending September 30th A.D. 1893 duly certified by oath, attached to the account, and the District Attorney has submitted said account for approval in open Court and it appearing to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated, and whereas, said charges appear to be just and according to law; It is ordered that said account, amounting to $267.60 Two hundred Sixty seven & 60/100 Dollars be, and the same is hereby approved this 27th day of July A.D. 1897.

Whereas, B. J. McKeyes, United States Commissioner for the Third Judicial District of New Mexico, has forwarded an accounting for his official services for the quarter ending June 30th A.D. 1893, duly certified by oath attached to the account, and the District Attorney has submitted said account for approval in open Court and it appearing to the satisfaction of the Court that the services therein charged have been actually and necessarily performed, as therein stated, and whereas, said charges appears to be just and according to law: It is ordered that said account, amounting to $21.60 Twenty one and 60/100 Dollars be, and the same is hereby approved this 27th day of July A.D. 1897.

Whereas, B. J. McKeyes, United States Commissioner for the Third Judicial District of New Mexico, has forwarded an accounting for his official services for the quarter ending June 30th A.D. 1894, duly certified by oath attached to the account, and the District Attorney has submitted said account for approval in open Court and it appearing to the satisfaction of the Court that the services therein charged have been actually and necessarily rendered and performed as therein stated, and whereas, said charges appear to be just and according to law It is ordered that said account, amounting to Sixty eight $68. Dollars, and the same is hereby approved, this 27th day of July A.D. 1897.

Whereas, Louis D. Marshall, United States Commissioner for the Third Judicial District of New Mexico has forwarded an accounting for his official services for the quarter ending June 30th A.D. 189- duly certified by oath, attached to the account, and the District Attorney has submitted said account for approval in Open Court and it appearing to the Satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated, and whereas, said charges appear to be just and according to law. It is ordered that said account amounting to Thirty Four and 80/100 Dollars be and the same is hereby approved this 27th day of July A.D. 1897.

Whereas Felix Martinez, Clerk of the United States District Court for the Fourth District of the Territory of New Mexico has rendered to this Court an account for his official services from the first day of January 1897. to the 30th day of June A.D. 1897. with the items and vouchers thereof, the same having been duly examined by the United States District Attorney, who recommends the approval thereof, and the said Clerk has by his oath attached to the account, proven to the Satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated, and whereas said charges appear to be just and according to law. It is hereby ordered that said account amounting to eight hundred and ninety two and 60/100 (892.60) Dollars be, and the same is hereby approved. And it is hereby certified that upon each of the days for which per diem is charged the court was opened for business and business was actually transacted in court or the Clerk attended as provided by Sections 583. 584. 671 or 672. of the Revised Statutes of the United States.

Dated at Santa Fe. N.M. this 27th day of July A.D. 1897.

Whereas William M Driscoll, Clerk of the United States District Court for the Fifth Judicial District of the Territory of New Mexico, has rendered to this Court an account for his official services from the 1st day of April A.D. 1897. to the 30th day of June A.D. 1897. inclusive with the items thereof, and the said account having been examined and after payment thereof advised by W. B. Childers Esq. United States attorney for the Fifth

of New Mexico, on the 27th day of July A.D. 1897. and has by his oath attached to the account, proved to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated; and whereas said charges appear to be just and according to law; It is hereby ordered that said account amounting to one hundred and forty eight dollars and Ninety cents ($148.90) be and the same is hereby approved.

715 Francis L. Pierce
Plff in Error
vs
Willard S Stickler
Deft in Error
} Error to Bernalillo County

This Cause coming on to be heard on a motion to dismiss the Writ of Error, is argued by Counsel for the respective parties and the Court not being sufficiently advised in the premises takes the same under advisement.

716 Henry Lockhart
Plff in Error
vs
J. L. Hill, et. al
Defts in Error
} Error to Bernalillo County

This Cause coming on to be heard on a motion to dismiss the writ of error herein, It is ordered by the Court that the Plaintiff in Error be granted leave to file affidavits herein.

765 Abran Abeytia
Plff in Error
vs
The Socorro National Bank
Deft in Error.
} Error to Socorro County

Now comes the Plaintiff in error, and files this dismissal of the Writ of Error herein. It is ordered by the Court that the Writ of Error herein be and the same is hereby dismissed.

It is ordered that Court do now adjourn until tomorrow morning at 10 oclock.

Thomas Smith
Chief Justice

Third Day. Wednesday July 28th 1897.

Court meets pursuant to adjournment

Present as upon yesterday.

The record of yesterdays proceedings is read and approved

Andres Lena et al
Plffs in Error
vs
Gross, Blackwell & Co.
Defts in Error
404
Error to San Miguel County.

On motion of Defendants in Error, by E. A. Fiske Esq. It is ordered by the Court that the order entered herein submitting this cause on briefs be and the same is set aside and it is now ordered that the record in this cause be supplied on or before Saturday next by the incoming of Court.

George N Middleton
Plff in Error
vs
A M Henry
Deft in Error
667
Error to Santa Fe County

This cause having been argued by Counsel for the respective parties herein, on the motion to dismiss the writ of error, and taken under adviserment on a former day of this term, the Court announces its decision sustaining said motion. It is therefore considered and adjudged by the Court that the motion to dismiss the writ of Error herein be and the same is hereby sustained and that the defendant in error do have and recover his costs in this behalf expended, of the Plaintiff in error, to be taxed and that execution issue therefor, and the plaintiff in error gives notice of a motion for a rehearing herein.

On Motion of Frank Springer Esq. It is ordered by the Court that the following named members of this bar be and the same are hereby appointed a committee to draft Rules of practice for this Court under the Code - Viz. Frank Springer Esq. N B Field Esq. James G. Fitch Esq. E. L. Bartlett Esq. S. B Newcomb Esq. W. B. Childers Esq. and A. A Jones Esq. and to report the same to this Court during the present term thereof.

717. Ex Parte.
In the matter of the petition of Leonard Lewisohn, et al } For writ of Certiorari

On motion of petitioner by Francis Downs Esq. It is ordered by the Court that this Cause be and the same is hereby set for Augt 5th 1897.

585 James T Johnson et al appellees
vs
Macario Gallegos, Sheriff, et al appellants } Appeal from Mora County

By agreement of Counsel for the respective parties herein, It is ordered by the court that this cause is set at the foot of the docket.

738 Horse Springs Cattle Co appellant
vs
John W Schofield, Receiver, et al appellees } Appeal from Bernalillo County.

This cause coming on to be heard on the motion of appellees for an order on to the Clerk of the Second Judicial District Court to furnish a certified copy of portions of the record of the Court below, not incorporated in the transcript of the record on file herein, to be paid for by the appellants, as signed by Counsel for the respective parties herein, and the Court not being sufficiently advised in the premises, takes the same under advisement.

It is ordered that Court do now adjourn until tomorrow morning at 10. oclock.

Thomas Smith
Chief Justice

Fourth Day. Thursday. July 29th 1897.

Court meets pursuant to adjournment.

Present as upon yesterday, with Chief Justice Smith presiding.

The record of yesterday's proceedings is read and approved.

On motion of E. L. Bartlett Esq. It is ordered by the Court that L. B. Priner Esq. be and he hereby is appointed a member of the Committee to draft Rules of Practice for this Court.

On motion of H. L. Hamm Esq. It is ordered by the Court that Francis Buchanan, a Member of the bar of the Fifth Judicial District, be and he hereby is admitted to Practice as an Attorney, Solicitor and Counsellor of this Court and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

Theobus Frendenthal, and
Morris Frendenthal,
Appellants

vs.

746 Thomas J. Bull and
Mariano Barela
Appellees

Appeal from Doña Ana County.

Now comes the said appellees by their Solicitor A. B. Newcomb Esq. and produces the Transcript of the record herein, and moves the Court to docket this cause and affirm the Judgment of the Court below, on account of the failure of the appellant to file the Transcript of Record of the District Court in this cause and the Court being sufficiently advised in the premises grants said motion. It is therefore considered and adjudged by the Court that the Judgment of the District Court in and for the County of Doña Ana in this cause came this Court be and the same hereby is affirmed and in accordance with the Judgment of the said District Court It is ordered, adjudged and decreed by this Court that the said appellees herein be and they hereby are restored to all the rights they had and enjoyed in and

to the possession of the premises in question in this cause at the time of the filing of the original and amended bills of Complaint in this cause in the Court below. That the said appellants herein forthwith deliver up the possession of the property and real estate mentioned and described in the said bills of Complaint to the appellees herein, so secured under said injunction. And that the costs in this cause be divided equally between the parties, each side paying one half of the costs in the Court below, and that the appellees herein do have & recover of the said appellants their costs in this behalf in this Court, to be taxed and that execution issue therefor. And it appearing to the Court that Martin Lohman and Adolph Jacoby are sureties on the appeal bond of said appellants. It is further considered and adjudged that the said appellees herein do have and recover of the said Martin Lohman and Adolph Jacoby sureties on said appeal bond as aforesaid their costs in this behalf expended, as well in Court below as in this Court to be taxed, and that execution issue therefor.

G Hommer & Co
Plff in Error

654 vs

Sigmund Lindauer
Deft in Error

Error to Grant County.

On motion it is ordered by the Court that this Cause be and the same is submitted on briefs to be filed within ten days from this date.

Francis L Pierce.
Plff in Error

715 vs

W. D. Shiekler.
Deft in Error

Error to Bernalillo County.

This cause coming on to be heard on the motion to file affidavit, and argued by Counsel for the respective parties it is ordered that upon the filing of said affidavit the motion will be sustained.

It is ordered that Court do now adjourn until tomorrow morning at 10 o'clock.

Thomas Smith
Chief Justice

Fifth day. Friday July 30th 1897.

Court meets pursuant to adjournment

Present as upon yesterday

The record of yesterdays proceedings are read and approved.

F. L. Pierce
Aff in Err
vs
W. S. Strickler
Deft in Err
} Error to Bernalillo County
715

It is ordered by the Court that the Clerk of the Second Judicial District Court, sitting in and for Bernalillo County, be and he hereby is ruled to forthwith prepare and forward to this Court a certified copy of the order of Continuance made in Cause No 3792 on the docket of said District Court, entitled, W. S. Strickler vs F. L. Pearce,

Horse Springs Cattle Co
vs
John W Schofield. Receiver. etal.
Appellees.
} Appeal from Bernalillo County
734

On motion of Appellees, on the suggestion of the diminution of the record It is considered and adjudged by this Court that the Clerk of the District Court within and for the County of Bernalillo, certify to this Court the matters omitted from said record as follows. towit: 1. The original Bill of Complaint. 2: Stipulation entered into between the defendant Company and Complainant for the appointment of George Smith Receiver. 3: The Order of the Court entered in said Cause in pursuance of said Stipulation appointing said George Smith Receiver and giving him instructions and authority in the premises. 4: The order granting change of Venue in said Cause from the 6th Judicial District within and for the County of Socorro to the Second Judicial District for the County of Bernalillo. 5: The final decree entered in said cause. 6: All of the testimony taken before Summers Burkhart Esq. Special Examiner together with the depositions of H. A. Haynes and John W Schofield. the costs to said Clerk for what is embraced in this order to be paid at this time by appellees and the finish from

items and by appellant for the testimony called for, with the right reserved to readjust said costs in the finial Judgment.

F. A Levy.
Plff in Error

659 vs

Jose A Ortega
Deft in Error

Error to Socorro County.

On motion of Plaintiff in error, by his Solicitor Francis Richardson Esq. It is ordered by the Court that the Plaintiff in Error herein be and he is hereby granted leave to file additional Assignments of error. and that this cause be and the same hereby is continued until the next regular term thereof.

John Boyle Jr
Appellant

672 vs

The Mountain Key Mining
Company et al
Appellees

Appeal from Socorro County

This cause coming on to be heard upon the Transcript of record, assignment of errors and briefs of Counsel, as assigned by Counsel for the respective parties, and the Court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that Court do now adjourn until to-morrow Morning at 10 o'clock

Thomas Smith
Chief Justice

Sixth Day Saturday July 31st 1897.

Court meets pursuant to adjournment.

Present as upon Yesterday

The record of Yesterday's proceedings is read and approved.

James A Jarrell
appellant

675 Vs

R. F. Barnett, assignee of
W. L. Bird
appellee

} Appeal from Chaves County

This cause coming on to be heard and the respective parties hereto not being represented by counsel, It is ordered by the Court that this cause be and the same is hereby submitted on briefs.

John A Thompson
Appellant

749 Vs

The Sandia Mining and
Smelting Company et al

} Appeal from Santa Fe County

Now comes the Sandia Mining and Smelting Company and Hiram B Cartwright and moves the Court for leave to file the transcript of the record in said cause, and the said appeal taken by the said John A Thompson be dismissed, and the Court being fully advised in the premises grants said motion. It is therefore considered and adjudged by the Court that the appeal to this Court herein of the said John A Thompson be and the same is hereby dismissed and that the appellees, the defendants in the Court below, do have and recover of the appellant herein, John A Thompson, their costs in this behalf expended, to be taxed, for which let execution issue, and comes now the said Sandia Mining and Smelting Company cross appellant herein, and says that it will not further prosecute its appeal in this cause but dismisses the same. It is therefore considered and adjudged by the Court that the said appeal of the said Sandia Mining and Smelting Company

to this court in this cause be and the same is hereby dismissed, and also comes Hiram B Earlwright appellant herein and says that he will not further prosecute his said appeal but dismisses the same. It is therefor considered and adjudged by the Court that the said appeal of the said Hiram B Earlwright to this Court in this cause heretofore same be hereby dismissed

United States of America.
Supreme Court of the Territory of New Mexico

I, John Morrow, of Raton in the County of Colfax Territory of New Mexico, I am hereby appointed United States Court Commissioner at Raton in the Fourth Judicial District, to administer, on application, by the proper persons the oaths, in preliminary proofs required under the homestead, timber culture and desert land affidavits and final laws when the applicant for the benefit of these laws, is prevented from personal attendance at the District Land Office, by reason of distance, bodily infirmity, or other good cause. In performing the duties of this office I will be governed by the laws above referred to, the Act of Congress of May 26. 1890 (26 Stat at large, page 121) and the rules of the general Land Office. Dated at Santa Fe this 30th day of July AD 1897.

Thomas Smith
Chief Justice

Attest
Seal Jno L Stryker.
Clerk

United States of America }
Territory of New Mexico }
County of Colfax }

I, John Morrow do solemnly swear that I will support the Constitution of the United States, and will, to the best of my knowledge and ability, discharge the duties of the office of United States Commissioner, in the Fourth Judicial District of the Territory of New Mexico to administer the oaths in preliminary affidavits and final proofs required under the homestead, Timber Culture and desert land laws. So help me God -

John Morrow

Sworn to and subscribed before me this 31st day of July A D 1897

A. J. Mitchell
Notary Public

Seal

It is ordered that Court do now adjourn until Monday morning at 10 o'clock.

Thomas Smith
Chief Justice

Seventh Day Monday August 2nd 1897.

Court Meets Pursuant to adjournment

Present as upon Saturday

The record of Saturday's proceedings is read and approved.

In Re.
650 Jose F Jaramillo } Habeas Corpus

This cause having been submitted on a motion for rehearing at a former term of this Court and taken under advisement, the Court announces its decision, by Associate Justice Langhlin, the Chief Justice and Associate Justices concurring, except Mr Associate Justice Collier who was disqualified and did not sit, denying said motion. It is therefore considered and adjudged by the Court that the motion for a rehearing in this cause, be and the same is hereby denied. and it is further ordered by the Court that the petitioner herein Jose F Jaramillo do have and recover of Delina de Jaramillo his costs in this behalf expended to be taxed for which let execution issue.

James S Jarrell
appellant
675 vs
R. F. Barnett, assignee
of W. L. Bird.
appellee } Appeal from District Court for Chaves County.

This cause having been submitted on briefs on a former day of this term and the Court having the same under advisement, announces its decision by Associate Justices Langhlin, Chief Justice Smith and Associate Justices Bantz and Collier concurring, affirming the Judgment of the Court below. It is therefore ordered adjudged and decreed by this Court that the Judgment of the District Court in and for the County of Chaves, wherein this cause came into this Court, be and the same is hereby affirmed, and that in accordance therewith, it is ordered, adjudged and decreed that the report of the master in said cause is in all things confirmed and that said cause be and is in favor of the

defendant R.F. Barnett, assignee of W.C. Bird, and that the said appellant J.L. Jarrell pay all the costs of this suit for which execution may issue, and it appearing to the court that W. M. Atkinson and R P Alexander are sureties on the appeal bond herein, it is further ordered adjudged and decreed by the court that the appellee R F Barnett, assignee of W.C. Bird do have and recover of the said W. M. Atkinson and R P Alexander sureties as aforesaid, his costs in this Court, as well in the Court below, to be taxed, for which let execution issue

694 The Manchester Fire Assurance Co Plff in Error } Error to Grant County.
vs
William Walker Deft in Error }

This cause coming on to be heard on the motion to dismiss the writ of error herein and, the Court after hearing the arguments of Counsel for the respective parties, denies the same. It is therefore considered and adjudged by the Court that the motion to dismiss the writ of error herein be and the same is hereby denied.

It is ordered that this Court do now adjourn until tomorrow morning at 10 o'clock.

Thomas Smith
Chief Justice.

Eighth Day Tuesday Augt 3rd 1897.

Court meets pursuant to adjournment

Present as upon Yesterday, except E. M. Forster United Marshal for the Territory of New Mexico now appears into open Court and is duly recognized by this Court as such Marshal as aforesaid.

The record of Yesterday's proceedings is read and approved.

It is ordered that Court do now adjourn until tomorrow morning at 10 Oclock

Thomas Smith
Chief Justice

Ninth Day Wednesday. August 4th 1897

Court meets pursuant to adjournment

Present as upon yesterday.

The record of yesterday's proceedings is read and approved.

James Addison Reavis
Plff in error
vs
701 United States
Deft in error
} Error to Dist Court 1st Judicial District

For the want of prosecution, It is ordered by the Court that the writ of error herein, be and the same is hereby dismissed, and that the defendant in error do have and recover of the plaintiff in error herein its costs in this behalf expended to be taxed for which let execution issue.

United States
appellee
vs
702 Edgar M Biggs
appellant
} Appeal from 1st Judicial District

It appearing to the Court that the appellant has been informed it is ordered by the Court that this cause be and the same is hereby stricken from the docket of this Court.

Manchester Fire Assurance Co
Plff in error
vs
694 William Walker
Deft in error.
} Error to Grant County

Now comes E. A. Fiske, Esq and enters his appearance for the defendant in error herein

Lincoln, Lucky Bird Mining Company
Plff in error
vs
724 Alexander M Hendry.
Deft in Error
} Error to Santa Fe County

This cause coming on to be heard on the motion

to dismiss the Writ of error and affirm the Judgment of the Court below, and after hearing argument of Counsel for the respective parties, and not being fully advised in the premises takes the same under advisement.

694 Manchester Fire Assurance Company Plff in Error
vs.
William Walker Deft in Error

The court declines to consider affidavits of Counsel for the modification or alteration of the record, and holds that it is manifest that the bill of exceptions does not contain motion for a new trial. The application of Counsel for leave to file motion and suggest diminution of record is granted upon his filing an affidavit that a motion for new trial was embraced in that portion of the record here filed beginning at page 51.

It is ordered that Court do now adjourn until Tomorrow morning at 10 oclock

Thomas Smith
Chief Justice

Tenth Day. Thursday. August 5th 1897.

Court met pursuant to adjournment.

Present as upon yesterday

The record of yesterday's proceeding is read and approved.

724 Lincoln Lucky Gold Ln Mining Company Plff in Error
vs
Alex M Henry Deft in Error
} Error to Santa Fe County.

This cause having been submitted to and taken under advisement upon the motion to dismiss the writ of error upon yesterday, the Court announces its decision by Chief Justice Smith, denying said motion, it is therefore ordered by the Court that the motion to dismiss the writ of error herein be and the same is hereby denied, the Court being divided upon the question

720 Denver & Rio Grande Railroad Company. Plff in error
vs
United States
Deft in error
} Error to First Judicial District Court.

On motion it is ordered by the Court that this cause be continued until the adjourned session of this Court, and the Plaintiff in error be allowed until August 25th in which to file its briefs and that the defendant in error be allowed until September 5th in which to file their briefs

721 Denver & Rio Grande Railroad Company. Plff in error
vs
United States
Deft in error
} Error to First Judicial District Court.

On motion, it is ordered by the Court that this cause be continued until the adjourned session of this Court and that the Plaintiff in error be allowed until August 25th in which to file its briefs and that the defendant in error be allowed until September 15th in which to file their briefs in this cause

5th Day, Thursday Augt 5th A. D. 1897

731 — United States of America, Plff in error, vs. The Denver & Rio Grande Rail-Road Company, Deft in error } Error to First Judicial District Court.

On motion, it is ordered by the Court that this cause be continued until the adjourned session of this Court and that the Plaintiff in error be allowed until August 25th in which to file her briefs and the defendant in error be allowed until September 15th in which to file his briefs.

710 — New Mexico National Bank, Plff in error, vs. George L Brooks, deft in error. }

This cause coming on to be heard on the motion to dismiss the writ of error herein and after hearing counsel for the respective parties and the Court being sufficiently advised denies the same. It is therefore considered by the Court that the motion to dismiss the writ of error herein be and the same is hereby denied, and that the defendant in error be and he is hereby allowed to join in error, and after hearing counsel, the cause is submitted to and taken under advisement by the Court upon the record, the briefs and arguments of Counsel herein.

717 — Ex Parte. In the matter of the application of Leonard Lewisohn et al } For writ of Certiorari

This cause coming on to be heard upon the Transcript of record, assignment of errors and briefs of counsel on file is partly argued.

It is ordered that Court do now adjourn until tomorrow morning at 10 o'clock.

Thomas Smith
Acting Justice

Eleventh day, Friday, Augt 6th 1897.

Court meets pursuant to adjournment

Present as upon yesterday

The record of yesterday's proceedings is read and approved.

Ex Parte

717 In the matter of the Application of Leonard Lewisohn et al } For writ of Certiorari

This cause coming on to be heard on the remainder of the argument, and after hearing the Counsel for the respective parties herein, and the Court not being sufficiently advised in the premises, takes the same under advisement.

715 Francis L. Pierce. Pff in error
vs
Millard A. Strickler Deft in error } Error to Bernalillo County

On motion it is ordered that this cause be and the same is hereby set for August 10th 1897.

716 Henry Lockhart Pff in error
vs
J. L. Wills, et al Deft in error } Error to Bernalillo County

On motion it is ordered that this cause be and the same is hereby set for August 10th 1897.

In Re

740 Application of Roe Chung. } For writ of Prohibition

On motion, the Petitioner is hereby allowed five days in which to file additional briefs herein.

Earley Times Distillery Company appellants, et al.
vs
673 Charles Zeiger et al appellees } Appeal from Bernalillo County

This Cause having been argued by Counsel and submitted to and taken under advisement upon a former term

This Cause the Court being now sufficiently advised in the premises announces its decision by Associate Justice Hamilton, Chief Justice Smith and Associate Justices Langhlin and Baudy Concurring, reversing and remanding this cause with directions to the Court below to overrule the demurrer and allow the Cause to proceed, It is therefore Considered and adjudged by the Court that this cause be and the same hereby is reversed and remanded to the District Court for the County of Bernalillo, whence this cause came into this Court with directions to said Court to overrule the demurrer and allow the Cause to proceed, It is further Considered and adjudged by the Court that the Appellants Herein Early Times Distillery Company et al do have and recover of the Appellees herein Charles Zieger et al their costs, as well in the Court below as in this Court in this behalf expended to be taxed, for which let execution issue.

674

Early Times Distillery Company et al, Appellants
vs
Charles Zieger et al, Appellees
} Appeal from Bernalillo County

This Cause having been submitted to and taken under advisement by the Court at a former term of this Court and the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Hamilton, Chief Justice Smith and Associate Justices Langhlin and Baudy Concurring, for reasons stated in the opinion on file, reversing and remanding this Cause with directions to the Court below to overrule the demurrer and allow the Cause to proceed, It is therefore Considered and adjudged by the Court, that this Cause be and the same hereby is reversed and remanded to the District Court for the County of Bernalillo, whence this cause came into this Court with directions to said District Court to overrule the demurrer and allow the Cause to proceed, It is further Considered and adjudged by the Court that the appellants herein, the Early Times Distillery Company et al do have and recover of the Appellees, herein, Charles Zieger et al their Costs in this behalf expended, as well in the Court below as in this Court, to be taxed, for which let execution issue

Eleventh Day, Friday Augt 6th A. D. 1897.

705

Raton Water Works Company
vs
The Town of Raton } Appeal from Colfax County.

This cause having been ~~argued and~~ submitted to the Court at a former term of this Court and taken under advisement by the Court, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Laughlin, Associate Justices Collier, Hamilton and Baulz concurring, for reasons stated in the opinion of the Court on file, reversing this cause with directions to the lower Court to dismiss the bill of Complaint at the cost of the Complainant. It is therefore considered, adjudged and decreed by the Court, that this cause be and the same hereby is reversed, and the district Court for the County of Colfax, whence this cause came into this Court is hereby directed to dismiss the bill of Complaint at the Cost of Complainant. It is further considered and adjudged by the Court that the said appellant, The Town of Raton do have and recover of the said appellee the Raton Water Works Company its costs in this behalf expended, in the Court below as well as in this Court, to be taxed for which let execution issue.

664

The Ferrocarril Railroad Company
Plff in error
vs
Josephine Desmarais, Administratrix,
Deft in error } Error to district Court for Santa Fe County

This Cause having been argued by Counsel and submitted to and taken under advisement by the Court at a former term, and the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Chief Justice Smith and Associate Justices Hamilton and Baulz concurring, for reasons stated in the opinion of the Court on file, Remanding this Cause, with directions to the lower Court to grant a new trial herein. It is therefore considered and adjudged by the Court that this cause be remanded to the district Court for the County of Santa Fe, whence this Cause came into this Court with directions to grant a new trial of said Cause, and it is further considered and adjudged by the Court that the Plaintiff in error, the

Cerrillos Railroad Company do have and recover of the defendant in error, Josefhina Desarant, administratrix, its costs in this behalf expended, as well in the Court below, as in this Court, to be taxed for which let execution issue.

W. P. Cunningham Sheriff of Santa Fe County and Mandell Bros Plff in error

7 14 vs

Louis D Sugar Deft in error

} Error to Santa Fe County.

This cause coming on to be heard upon the Transcript of record, assignment of error and briefs of Counsel and is partly argued by Counsel for the respective parties herein.

Whereas, the account of Felix Martinez, Clerk of the Fourth District Court of New Mexico for the half year ending June 30th 1897. has been filed in this Court; and it appearing to the Court that it is necessary for said account to be on file in the Office of the Clerk of the Fourth district for the proper reference to it until the same is settled by the Department of Justice.

It is ordered that said Felix Martinez, Clerk and Ex-officio is allowed to withdraw said account from the files of this Court until the same is fully settled, thereafter to be returned to the files of this Court.

Thomas Smith
Chief Justice

It is ordered that Court do now adjourn until tomorrow morning at 10 o'clock

Thomas Smith
Chief Justice

Twelfth Day. Saturday. Augt. 7th A.D. 1897.

Court meets pursuant to adjournment

Present as upon Yesterday.

The record of Yesterday's proceedings is read and Approved.

757 Nathan Hall appellee vs James W Hale et al appellant } Appeal from Socorro County

Now comes the appellee herein by James G. Filch Esq. and moves the Court for leave to file the Transcript herein and to dismiss the appeal for want of prosecution, and the Court being fully advised in the premises grants said motion, It is therefore considered and adjudged by the Court that the appeal herein be and the same hereby is dismissed, that the Judgment of the District Court of the Fifth Judicial District for the County of Socorro, whence this cause came into this Court be and the same is hereby affirmed and the appeal is dismissed, and the cause remanded to said District Court with directions to carry into effect its Judgment and to dismiss the appeal. and it is further considered and adjudged by the Court that the said Nathan Hall appellee herein, do have and recover of the said James W Hale and George L Hurst, appellants herein his costs in this behalf expended, as well in the Court below as in this Court to be taxed for which let execution issue, and it appearing to the Court that H. O Bursum and A. B. Baca are sureties on the appeal bond in this cause, it is further ordered, and adjudged that the said Nathan Hall do have and recover of the said H. O. Bursum and A B Baca, sureties as aforesaid, his costs in this behalf expended, as well in the Court below as in this Court, to be taxed for which let execution issue, and it further appearing to the Court that the Sheriff of the County of Socorro is an interested party herein It is ordered that the execution issue to some disinterested person in said County, who is hereby authorized to execute the same, and due return make to this Court of his doing thereon.

Twelfth Day, Saturday Augt 7 A. D. 1897

714

W. P. Cunningham Sheriff of Santa Fe County Ed Mandell Bros. Plffs in error

vs.

Louis D Sugar deft in error

Error to Santa Fe County.

This cause coming on to be heard upon the remainder of the argument by Counsel, is taken under advisement by the Court, the Court not being sufficiently advised in the premises.

It is ordered that Court do now adjourn until Monday morning at 10 o'clock

Thomas Smith
Chief Justice

Thirteenth Day. Monday Augt. 9th. A.D. 1897.

Court Meets pursuant to adjournment.

Present as upon Saturday. except Associate Justices Collier and Rainey.

The record of Saturday's proceedings is read and approved

718 L. P. Browne and F. A. Manzanares, partners under the firm name and style of Browne and Manzanares Plffs in error vs Francisco Chaves, 2nd. Deft in error } Error to District Court of Bernalillo County

This cause coming on to be heard upon the transcript of the record, assignment of errors, and briefs of counsel and after hearing argument by counsel for the respective parties and the Court not being sufficiently advised in the premises takes the same under advisement

753 United States of America appellants vs The Rio Grande Dam and Irrigation Company et al appellees } Appeal from Third Judicial District Court.

Stipulation having been entered into in this cause by and between the parties thereto by their respective counsel, that the appeal taken in said cause may be docketed and heard at the present term of this Court to the same effect as if the same had been docketed more than thirty days prior to the first day of the term, and said stipulation having been submitted to the Court, It is hereby ordered that said Cause be docketed and set for hearing on the twentieth day of August A.D. 1897. It is further ordered, that the filing of the transcript of the record required by the Statutes and the rules of the Court be dispensed with, and that the Clerk of the district Court of the Third Judicial District be and he is hereby ordered to certify and return to the Clerk of this Court all the original papers in said cause now on file in his office with all en-

— ominent speed. Said papers to be used upon the hearing of said Cause in lieu of a certified transcript thereof. It is further ordered that after the hearing of said Cause, a copy of said papers and record be prepared and certified and left on file with the Clerk of this Court as the record in said Cause and that the original papers thereafter be returned to the Clerk of the said district Court. It is further ordered that the printing of the record in said Cause be dispensed with.

It is ordered that Court do now adjourn until tomorrow morning at 10 oclock

Thomas Smith
Chief Justice

Fourteenth Day, Tuesday Augt 10th A D 1897.

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterday's proceedings is read and approved.

The Maxwell Land Grand Company
Plff in error
723 vs
John R Dawson
Defdt-in error
} Error to San Miguel County

Now the Plaintiff in error by its attorney Frank Springer Esq. and says to the Court here that it will no longer prosecute its writ of error herein and dismisses the same, It is therefore considered and adjudged by the Court that the writ of error herein be and the same is hereby dismissed and that the Defendant in error do have and recover of the Plaintiff in error his costs in this behalf expended to be taxed for which let execution issue therefor.

Andres Lena et al
Plffs in error
404 vs
Gross, Blackwell & Co
Defts. in error
} Error to San Miguel County

This cause coming on to be heard upon a motion to dismiss the writ of error herein, the Court hears argument of Counsel for the respective parties and not being sufficiently advised takes the same under advisement.

Henry Lockhart
Plff in error
716 vs
J R Wills et al
Defts in error
} Error to Bernalillo County

The Court having at a former day of this term overruled the motion to dismiss the writ of error herein and by inadvertance of the Clerk of this Court the entry of the overruling of said motion was not made in the record, It is ordered by the Court that said entry be now made, and it is hereby made, overruling the motion to dismiss the

said Writ of Error herein, and this cause now coming on to be heard on a motion to reheas the motion to dismiss the writ of error, it is ordered by the Court that the motion for a ordhearing on the motion to dismiss the writ of Error herein be and the same is hereby denied and overruled

Francis L Stacee
Plff in error
vs
715
W S Strickler
Deft in error
} Error to Bernalillo County

This Cause coming on to be heard upon the Transcript of Record, assignment of error and briefs of Counsel on file, is argued by N. L. Warren Esq for Plaintiff in error and W. S. Strickler for defendant in error and submitted to and taken rendered advisement by the Court, the Court not being sufficiently advised in the premises.

It is ordered that Court do now adjourn until tomorrow morning at 10 o'clock

Thomas Smith
Deputy District

Fifteenth Day. Wednesday. Augt. 11th 1897.

Court meets pursuant to adjournment

Present as upon yesterday. except Associate Justice Bantz is now present.

The record of yesterdays proceedings is read and approved.

On motion of George P. Money Esq. It is ordered by the Court that John Franklin, a member of the bar of the Fifth Judicial District be, and he hereby is admitted to practice as an attorney, Solicitor and Counselor of this Court and he thereupon appears in open Court and takes the official oath prescribed by the rules of this Court.

755 In the Matter of the Committee on Rules for the Supreme and District Courts. } Santa Fe New Mexico August 11th 1897

To the Honorable Chief Justice and Associate Justices, Supreme Court of New Mexico.

The committee appointed at a former day of this Court, to prepare and present new rules adapted to the practice under the Code which went into effect on the first instant, respectfully report that it has given the matter the earnest consideration which its importance demands. All of the eight members having participated in the work with the exception of Judge Newcomb who was unable to be present and herewith present the result. We found that many of the former rules had either been incorporated bodily in the Code or their substance was contained therein; others are believed to be obsolete or of questionable utility, all such we have omitted. The rule in regard to admission to practice is that of Illinois and Ohio, where it has been in operation a number of years and we believe the adoption here will be a benefit to the profession. The rule relative to Cross appeals and Cross writs of error is taken verbatim from the Revised Statutes U. S. The rule giving the District Judges the right to examine supporting witnesses on application for change of Venue

has been used in some of the districts, we understand with great success, and we think it should be a standing rule of this Court. If these or any other rules are adopted, we would respectfully ask the Court to recommend to the Department of Justice that the same be recorded, printed and distributed at the expense of the U. S. Government as there is no territorial or other fund available for that purpose. All of which is respectfully submitted.

W. B. Childers
Frank Springer
L. Bradford Prince
A. A. Jones
Edward L. Bartlett
J. G. Fitch
Neill B. Field
Committee

W. B. Childers
Chairman

Edward L. Bartlett
Secretary

719

Harriet E. Cram et al
Plffs in error
vs
Neill B. Field, executor
of the estate of Jo Montana de Sanchez
and James Sanchez
Defts in error

} Error to District Court of Bernalillo County

This cause coming on to be heard upon the Transcript of the record, assignment of errors and Briefs of Counsel on file, is argued by W. B. Childers Esq for Plaintiffs in error and W. B. Field Esq for defendant in error, submitted to and taken under advisement by the Court.

716

Henry Lockhart
Plff in error
vs
J. D. Wills et al
Defts in error

} Error to Bernalillo County

This cause coming on to be heard upon the transcript of the record, assignment of errors and briefs of Counsel on file, the Court hears a portion of the arguments of Counsel.

Fifteenth Day. Wednesday Augt 11th A. D. 1897

729 Stern & Krauss
Plaintiffs in error
vs
Paul J. Bates
Defendant in error
} Error to Burnalillo County

On stipulation of the attorneys of the respective parties herein this cause is submitted to the Court on briefs. It is therefore ordered that this cause be and the same is hereby submitted to and taken under advisement by the Court upon the briefs of Counsel herein, without argument.

It is ordered that Court do now adjourn until to-morrow morning at 10 o'clock.

Thomas Smith
Acting Justice

Sixteenth. Day. Thursday August. 12th 1897.

Court meets pursuant to adjournment

Present as upon yesterday. except that Associate Justice Keller is now present.

The record of yesterdays proceedings is read and approved

669. Antonio J Ortiz et al
Gusano Ortiz
Plffs in error
vs
Jose A Salazar
Deft in error
} Error to Bernalillo County.

Now comes said defendant in error by his attorney, Summers Burkhart Esq. and moves the Court to affirm the Judgment of the lower Court in the above entitled cause with ten per cent damages for delay. for reasons stated in his motion on file; and it appearing to the Court that no transcript of record in said cause has been filed in this Court by said Plaintiffs in error ten days before the first day of the present term to which said writ of error was returnable, or at any time, and that said plaintiffs in error have confessed that a judgment may be entered in this Court affirming the Judgment of the lower Court with ten per cent damages, and the said defendant in error now presenting to this Court a complete transcript of the record in said cause by which it appears that no motion for a new trial was made in the lower Court in said cause and that no bill of exceptions is contained therein and it further appearing that the said writ of error was sued out for delay and that the same has delayed the proceedings and the Judgment of the District Court, the Court grants said motion. It is therefore considered and adjudged by the Court that the Judgment in this cause of the District Court of the County of Bernalillo, whence this cause came into this Court, be and the same hereby is affirmed with ten per cent damages for delay and that in accordance therewith the said defendant in error Jose A Salazar do have and recover

from the said plaintiffs in error, Antonio J Ortiz and Susano Ortiz, the sum of three hundred and fifty dollars and forty cents, that being the amount of the Judgment of the lower Court for two hundred and ninety five dollars and nineteen cents sixth interest thereon at the rate of six per cent per annum from April 14. 1896. the date of said Judgment until to day and ten per cent damages thereon awarded by this Court, together with the costs of this suit, as well in the lower Court as in this Court, to be taxed and that he have execution therefor. And it further appearing to the Court that Juan Ortiz and Luis Tafoya are sureties on the supersedeas bond herein; It is further considered and adjudged by the Court that the said Jose A Salazar recover of and from the said Juan Ortiz and Luis Tafoya sureties as aforesaid, the said sum of three hundred and fifty-dollars and forty cents, together with costs as aforesaid, and that he have execution therefor.

729 — United States of America, Plff in error, vs Frank Lesnet et al — Error to Fifth Judicial Dist Court

On motion it is ordered that this be and the same is set for hearing on Augt 20th 1897.

694 — The Manchester Fire Assurance Co, Plff in Error, vs William Walker, Deft in error — Error to Grant County.

Now this Cause coming on to be heard upon the motion of the defendant in error filed herein on the second day of August 1897. to strike from the record in this Cause and Court the alleged motion for a new trial contained therein and the motion of the said plaintiff in error filed herein on the ninth day of August 1897. and the further motion of the said defendant in error filed herein on the twelfth day of August 1897 to strike from the record and files of this Cause and Court the affidavits of C. B Gillett Esq and the affidavit of O. B. Stott filed herein by

said plaintiff in error and said General motions having been heard and considered together and argument having been heard by Counsel as well as for the said plaintiff in error as for the said defendant in error, and the Court being now sufficiently advised in the premises doth overrule and deny said motion of the said plaintiff in error and doth grant said motions of the said defendant in error. It is therefore considered and adjudged by the Court that the said affidavits of said A B Gillett Esq. and the said affidavits of the said A B Stolt be and the same are hereby stricken from the records and files of this Court and it is further considered and adjudged by the Court that the said alleged motion for a new trial in the District Court for the County of Grant wherein this Cause came into this Court, as the said alleged motion for a new trial appears on pages thirty one, thirty two and thirty three of the first Part of the original Transcript of record in this Cause filed in this Court on the 12th day of July 1899. and which said first Part of said original Transcript of record is paged from Page one to Page forty, both inclusive, and which said alleged motion for a new trial is printed on Folios 133 to 143 of the printed Transcripts of record in this Cause filed herein, be and the same is hereby stricken from the said original and printed Transcripts of record in this Cause and Court, and from the records and files of this Court; and it is further considered and adjudged by the Court that the said motion of the said plaintiff in error be and the same is hereby overruled and denied. and it is further ordered by the Court that this cause be set down for hearing on Saturday the 14th day of August A D 1899.

716

Henry Lockhart
Plff in error
vs
J. L. Wills et al
Defts in error
} Error to Bernalillo County

This cause coming on to be heard on the remainder of the argument of Counsel, is heard by the Court and it is submitted to and taken under advisement

by the Court. it not being sufficiently advised in the premises.

711 Neill. B. Field
Plff in error.
vs
John A. Lea
Deft in error } Error to District Court for Santa Fe County

This cause coming on to be heard upon the Transcript of record, assignment of errors and Brief of Counsel on file, is partly argued.

716 Henry Lorchard.
Plff in error
vs
J. L. Wills, et al
Defts in error } Error to Bernalillo County

Now come the defendants in error by their attorney W. B. Childers Esq. upon the conclusion of Plaintiffs in error opening argument and before the argument for defendants in error had been commenced, and files a motion to dismiss the writ of error in said cause, because the printed transcript filed in said cause, is not a true, correct and complete copy of the original returned by the Clerk of the Court below, and supports the same by affidavit that he had just discovered that the motion for a new trial made in said cause was not incorporated in the bill of exceptions returned by the Clerk of the District Court, but appears in the printed transcript as a part of the bill of exceptions. and thereupon after defendants in error had made said motions to dismiss said writ of error, the Plaintiff in error by his attorney N. L. Warren Esq. filed a motion in said cause to amend the Judgment of the Court below and award the cause for a new trial because defendants in error had failed to file any written Joinder to Plaintiffs in errors assignment of errors. Whereupon the Court took said motions under advisement and held that the argument of said cause should proceed without prejudice to the parties to said motions. The Court further ordered that a writ of Certiorari issue to the Clerk of the Court below commanding him to certify and send up to this Court all the original papers on file therein

Sixteenth Day, Thursday Augt 12th A. D. 1897

including the original bill of exceptions and all affidavits and other papers referred to therein.

It is ordered that Court do now adjourn until tomorrow morning at 10 o'clock.

Thomas Smith
Acting Justice.

Seventeenth Day - Friday August 13th AD 1897

Court meets pursuant to adjournment

Present as upon yesterday

The record of yesterday's proceedings is read and approved.

Neill B Field
Plff in error

vs

John L Cain
Deft in error

711

Error to Santa Fe County

This Cause coming on to be heard on the remainder of the argument by Counsel, is submitted to and taken under advisement by the Court, the Court not being sufficiently advised in the premises.

Frederic Brotzen and Hugo Brotzen
Plffs in error

vs

E. N. Haynes.
Deft in error

725

Error to Chaves County.

This cause coming on to be heard on the motion of defendant in error by his attorney John Franklin Esq. to affirm the Judgment of the Court below, for reasons stated in open Court and the Court being sufficiently advised in the premises grants said motion. It is therefore considered and adjudged by the Court that the Judgment of the District Court of the County of Chaves wherein this Cause came into this Court be and the same hereby is affirmed, and in accordance therewith it is ordered and adjudged by the Court that the defendant go hence without day and recover of the plaintiffs his cost herein, to be taxed, as well in the Court below as in this Court, expended, for which let execution issue. And it appearing to the Court that Thomas Long and Thomas Howard are sureties on the appeal bond herein. It is further ordered and adjudged by the Court that the defendant in error herein E N Haynes do have and recover of the said Thomas Long and Thomas Howard sureties as aforesaid his cost in this behalf expended, as well in the Court below as in this Court, to be taxed for which let

Seventeenth Day. Friday Augt 13th A. D. 1897

execution issue.

726. George W. Witt et al appellees
vs
G. Cannon et al appellants

Appeal from Eddy County

This cause coming on to be heard upon the transcript of record, assignment of errors and briefs of Counsel on file, is partly argued by A. A. Freeman Esq for appellants and John Franklin Esq for appellees.

It is ordered that Court do now adjourn until tomorrow morning at 10 oclock

Thomas Smith
Chief Justice

Eighteenth Day. Saturday Augt. A.D. 1897.

Court meets pursuant to adjournment

Present as upon Yesterday

The record of yesterdays proceedings is read and approved.

726. George W. Witt et al appellees vs G. Cuenod et al appellants } appeal from Eddy County

This cause coming on to be heard on the motion for the assignment of counsel, is argued, and submitted to and taken under advisement by the Court, the Court not being sufficiently advised in the premises.

It is ordered that Court do now adjourn until Monday morning at 10 oclock.

Thomas Smith
Chief Justice

Nineteenth Day. Monday Augt 16th ad 1897.

Court meets pursuant to adjournment.

Present as upon Saturday

The record of Saturday's proceedings is read and approved.

In the matter of Committee on Rules for the Supreme and District Court.

It is ordered that the draft of the rules of practice heretofore reported by the Committee appointed by this Court be withdrawn from the files by the Clerk for printing, and the Clerk is directed to procure 100 proofs of the same from the Public Printer immediately for use by members of the bar and Court. It is further directed that any objections or proposed amendments to said rules or any or either of them, shall be filed in writing with the Clerk on or before Friday morning, 20th inst. and that answers to such objections be filed on or before Saturday morning 21st inst.

755

The Lincoln Lucky and Lee Mining Company
Plff in error
vs
Alexander M Hendry
Deft in error
} Error to Dunta Co County

724

It appearing to the Court by the record filed in this court and by the original bill of exceptions shown to the Court is not a bill of exceptions was signed sealed and made a part of the record in this cause and that the bill of exceptions in cause No 667 was by stipulation made a part of the record in this cause, the motion for certiorari will be overruled, the motion for leave to file new assignments of error is sustained, and if defendant in error so not ready to proceed at this time, the cause will be continued at cost of plaintiff in error until the adjourned term.

Nineteenth Day, Monday Augt 16th A. D. 1897.

724

The Lincoln, Lucky & Lee Mining Company Plff in error

vs

Alexander M. Hendry Deft in error

Error to Santa Fe County

This cause coming on to be heard upon the transcript of record, assignment of errors and briefs of Counsel on file, is argued by H. L. Warren Esq for the plaintiff in error and N. B Field Esq for defendant in error, and submitted to the Court, and the Court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that Court do now adjourn until to-morrow morning at 10 o'clock.

Thomas Smith
Acting Sheriff

Twentieth Day, Tuesday Augt 17th A. D. 1897

Twentieth Day. Tuesday Augt 17th A.D. 1897.

Court meets pursuant to adjournment.

Present as upon Yesterday

The record of yesterday's proceedings is read and approved.

694 — The Manchester Fire Assurance Company, Plaintiff in error, vs William Walker, Deft in error — Error to Grant County

This cause coming on to be heard on the motion for writ of Certiorari, the Court announces its decision denying said motion. It is therefore ordered that the motion for certiorari be and the same is overruled and denied, and no further motions will be allowed in this cause.

653 — The United States of America, appellant, vs Rio Grande Dam and Irigation Company et al, appellees — Appeal from the Third Judicial District Court

On motion of appellant by N. B. Laughlin Esq it is ordered that this cause be set for hearing on Monday August 23rd 1897.

673 — Early Times Distillery Co et al, appellants, vs Chas Zinger et al, appellees — Appeal from Bernalillo County

674 — Early Times Distillery Co et al, appellants, vs Chas Zinger et al, appellees — Appeal from Bernalillo County

Now come the appellees in the foregoing two causes and moves the Court to grant them leave to file a motion for a rehearing in said Causes and the Court being advised in the premises grants said motions. It is therefore considered and adjudged by the Court that the motion

for leave to file motions for rehearing in said cause and the same is hereby granted, the same to be file on or before Monday Augt 23rd 1897.

751. The Territory of New Mexico appellee vs Robert A. Casey et al appellants } Appeal from Lincoln County

On agreement of Counsel for the respective parties herein, It is ordered that this cause be and the same is continued until the next regular term of this Court.

730 Wellington A Gibson appellee vs John D. W. Vesder appellant } Appeal from Bernalillo County

This cause coming on to be heard upon the transcript of record, assignment of errors and briefs of Counsel on file, is argued by G. W. Johnson Esq and R. B. McMillen Esq for appellee and Jno D W Vesder Esq and Elomer E. Vesder Esq for appellant and submitted to the Court and the Court not being sufficiently advised in the premises, takes the same under advisement.

694 The Manchester Fire Assurance Co Plff in error vs William Walker. deft in error } Error to Grant County

Now come plaintiff in error herein by Warren, Ferguson and Gillett, its attorneys and excepts to the ruling of the Court in overruling plaintiff's in error motion for a writ of Certiorari herein and excepts to the ruling of the Court in refusing plaintiff in error to file any further motion herein.

It is ordered that Court do now adjourn until tomorrow morning at 10 o'clock

Thomas Smith
Presiding Justice

Twenty first Day. Wednesday Augt 18th 1897.

Court mets pursuant to adjournment.

Present as upon yesterday.

The record of yesterday's proceedings is read and approved.

Andres Lena et al
Plffs in error
vs
404
Gross. Blackwell and Company
Defts in error
} Error to District Court for San Miguel County.

This cause having having been argued and submitted to the Court and taken under advisement by the Court at a former day of the present term, and the Court being now sufficiently advised in the premises announces its decision by Chief Justice Smith, the associate Justices concurring, granting the motion to dismiss the Writ of error and appeal herein. It is therefore considered and adjudged by the Court that the Writ of error and Appeal herein in this cause be and the same is hereby dismissed, and it is further ordered by the Court that the said defendants in error do have and recover of the Plaintiffs in error herein their costs in this behalf expended as well in the Court below as in this Court, to be taxed for which let execution issue.

George N. Nill et al
appellees
vs
726. G Emmons et als.
appellants.
} Appeal from Dist Court for Dona Ana County

It is ordered by the Court that the motion to have the testimony taken in this cause in the Court below brought upto this Court, be and the same hereby is denied.

Territory of New Mexico
appellee
vs
686 Cecilio Rodriguez
appellant
} Appeal from Dist Court for Dona Ana County

Now come the appellant herein by his attorney A B Fall Esq. and says to the Court here that he will

not further prosecute his appeal herein but dismisses the same. It is therefore considered and adjudged by the Court that this cause be and the same hereby is dismissed and that the Judgment of the District Court of the County of Dona Ana wherein this cause came into this Court be and the same is hereby affirmed, and in accordance with the Judgment of said District Court of Dona Ana County in this cause, it is ordered by the Court that the said Cecilio Rodriguez be remanded to the custody of the Sheriff of the County of Dona Ana, to be by him the said Sheriff delivered to the Superintendent of the Territorial Penitentiary situated at Santa Fe, New Mexico, to be by said Superintendent of the said Territorial Penitentiary, safely and securely confined therein at hard labor for the period of (3) three years from and after this date and that a warrant of commitment issue against said Cecilio Rodriguez, and it is further ordered by the Court that the said Cecilio Rodriguez pay all costs of this prosecution against him to be taxed, for which let execution issue.

Bessie Barnett
appellee

734 Vs

Joseph Barnett
appellant

} appeal from Bernalillo County

This cause coming on to be heard upon the transcript of record, assignment of errors and briefs of Counsel on file and after hearing argument of Counsel for the respective parties herein, the same is submitted to and taken under advisement by the Court, the Court not being sufficiently advised in the premises.

Territory of New Mexico
appellee

756. Vs

Henry Daniels
appellant

} appeal from Grant County

Now come the appellee herein by her Solicitor General and move the Court to affirm the Judgment of the Court below in this cause, and the Court not being fully advised in the premises, takes the same under advisement.

Twenty first Day, Wednesday Augt 18th A. D. 1897

625 Addison M Jones et al appellees
vs
Marcus Brunswick et al appellants,
} appeal from Lincoln County

Now come A.B. Newcomb Esq and move the Court for leave to file the certified copy of the order made in the district Court approving the report of the Master in this cause, as was required by the mandate of this Court and to have a Judgment of this Court entered for the amount of Three Hundred Dollars, found to be due said A.B. Newcomb in the said report of said Master in this cause. and the Court not being sufficiently advised in the premises takes the same under advisement.

694 The Manchester Fire Assurance Company Plaintiff in error
vs
William Walker. Deft in error
} Error to Grant County.

This cause coming on to be heard on the Transcript of record, the assignment of errors and briefs of Counsel on file, is argued by Counsel and submitted to and taken under advisement by the Court.

It is ordered that Court do now adjourn until to morrow morning at 10 o'clock.

Thomas Smith
Chief Justice

Twenty second Day Thursday Augt. 19th AD 1897.

Court meets pursuant to adjournment

Present as upon yesterday

The record of yesterdays proceedings is read and approved.

The Territory of New Mexico
Appellee
vs
Henry Daniels
Appellant
} Appeal from District Court of Grant County.

756.

This cause having been Taken under advisement by the Court on a former day of the Present term upon a motion of appellee to dismiss the appeal herein and affirm the Judgment of the Court below, and the Court being now sufficiently advised in the premises, grants said motion, announcing its decision by Chief Justice Smith, the Associate Justices concurring. It is therefore Considered and adjudged by the Court that the Judgment and Sentence of the District Court for the County of Grant, wherein this cause came into this Court be and the same hereby is affirmed, And it appearing to the Court that the Date fixed by said District Court for the execution of said defendant has passed, It is now further considered and adjudged by the Court that the said Henry Daniels be and he hereby is committed to the custody of the Sheriff of the County of Grant, in the Territory of New Mexico, to be by him safely and securely confined in the Common Jail of said County of Grant until Friday, September the 17th A.D. 1897. and on said day to be thence conveyed to some suitable spot in said County of Grant and between the hours of five oclock in the forenoon and five oclock in the afternoon of said day, the said Henry Daniels to be by said Sheriff, hanged by the neck until he be dead and it is further Considered and adjudged by the Court that a duly certified copy of this Judgment and Sentence, duly attested by the Clerk of this Court shall be the warrant to said Sheriff for the due execution thereof.

738

Horse Springs Cattle Company
Appellant
vs
John W Schofield, Receiver.
} Appeal from Bernalillo County

This cause coming on to be heard on the Transcript

of record, assignment of errors and briefs of Counsel on file, is argued by A L Warren and A B Gillett for the appellant and E W Dobson Esq for appellees and the Court, consisting of Chief Justice Smith and Associates Bantz and Laughlin, Associate Justices Hamilton and Collier, not sitting, not being sufficiently advised in the premises, takes the same under advisement.

727 — Atlantic and Pacific Railroad company, Plff in error, vs John Brennan, an infant, by Joseph Brennan, his next friend, Deft in error } Error to Bernalillo County.

Now come the Plaintiff in error, by its attorney Karl A Snyder Esq and says to the Court here that it will not longer prosecute its writ of error herein and dismisses the same. It is therefore considered and adjudged by the Court that the writ of error herein be and the same hereby is dismissed, and it is further considered and adjudged by the Court that the defendant in error herein do have and recover of the Plaintiff in error herein his costs in this behalf expended, to be taxed, and that execution issue therefor.

628 — Addison M James et al appellees vs Marcus Brunswick et al Appellants } appeal from Lincoln County

This cause having been submitted to the Court on a former day of this Term upon a motion of A B Newcomb to have a Judgment entered in this Court for the sum of Three Hundred Dollars, the amount found due him by the Master in said cause, and the Court being now sufficiently advised in the premises, denies the same for the reason that the Court below has full Jurisdiction of the said Cause.

It is ordered that Court do now adjourn until to-morrow morning at 10 o'clock

Thomas Smith
Chief Justice

Twenty third Day. Friday Augt. 20th A.D. 1897.

Court meets pursuant to adjournment

Present as upon yesterday

The record of yesterday's proceedings is read and approved.

729 United States of America
Plff in error
vs
Frank Rasmet et al
Defts in error.
} Error to Fifth Judicial District Court

This cause coming on to be heard upon the motions to dismiss the appeal and motion to dismiss the writ of Error herein, is argued by Counsel for the respective parties hereto, and submitted to the Court, and the Court not being sufficiently advised in the premises, takes the same under advisement.

Whereas, W. B. Walton, Clerk of the United States District Court of the Third Judicial District of the Territory of New Mexico, has rendered an account for fees and per diems for services rendered as such Clerk for the quarter ending the thirtieth day of June A.D. 1897. together with the items of said account, and in the presence of W. B. Childers Esq. United States Attorney for the Territory of New Mexico, has proven on oath to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated, and on the days per diems are charged Court was duly in Session as therein stated and business transacted, and as such charges appear to be just and according to law, it is ordered that said account amount to the sum of one hundred and thirty four and 20/100 Dollars, be and the same is hereby allowed.

726 George W Witt et al
appellees
vs
G. Lemmon et al
appellants
} Appeal from Eddy County

Now Come the appellants by their Solicitor. A. A. Freeman Esq. and move the Court for leave to file in this Court and Cause, the copy of the Testimony taken in the

Court below, and the Court not being sufficiently advised in the premises, takes the same under advisement.

733. Territory of New Mexico appellant. vs. United States Trust Company of New York et al } Appeal from Bernalillo County

Now comes said appellant, Territory of New Mexico by its Solicitor, and shows to the Court here that there was, in making up the record herein, accidentally omitted from said record, certain copies of additional assessments which were a part of the intervening petition of said appellant; and appellant now produces in Court, a copy of said copies, duly certified by the Clerk of the Court below, and moves the Court for leave to file said certified copy as an addition to and part of the record herein, and said appellees appearing in Court by their Counsel Karl A. Snyder Esq. and not resisting said motion, the Court being sufficiently advised in the premises, grants the same, It is therefore ordered by the Court that leave be and is hereby is given to appellant to file the said certified copy as an addition to, and part of the Record herein.

On motion of Wm. B. Childers Esq. a member of this bar, It is ordered by the Court that Charles F. Easley, a member of the bar of the Fifth Judicial District Court be and he hereby is admitted to Practice as an Attorney, Solicitor and Counselor of this Court, and he thereupon appears in open Court and takes the official oath prescribed by the Rules of this Court.

732 Territory of New Mexico appellant vs. United States Trust Company of New York et al appellees. } Appeal from Bernalillo County.

Now come the appellees herein by their Solicitor Karl A. Snyder Esq and moves the Court to affirm the Judgment of the Court below, in this cause, and after argument of Counsel for the respective parties hereto, and the Court not being fully advised in the premises, takes the same under advisement.

733 Territory of New Mexico
appellant
vs
Mutual Life Insurance Company of New York
appellee
} Appeal from Bernalillo County

Now come the appellees herein by their Solicitor Karl A. Snyder Esq. and move the Court to affirm the Judgment of the Court below, in this cause, and after argument of Counsel for the respective parties hereto, and the Court not being fully advised in the premises takes the same under advisement.

709 Wells. Fargo & Company Express.
appellee
vs
William A Walker.
} Appeal from Bernalillo County

This cause coming on to be heard on the Transcript of Record, assignment of errors, and briefs of Counsel on file, is argued by Karl A Snyder Esq for appellee and N. B. Field Esq for appellant and submitted to the Court, and the Court not being sufficiently advised in the premises takes the same under advisement.

It is ordered that Court do now adjourn until to-morrow morning at 10 o'clock

Thomas [redacted]
Chief Justice.

Twenty fourth Day. Saturday Augt 21st A.D. 1897.

Court meets pursuant to adjournment

Present as upon yesterday

The record of yesterday's proceedings is read and approved.

626. The Territory of New Mexico appellee vs. Pedro Garcia appellant. } Appeal from District Court for Bernalillo County

Now come the Appellee, by her Solicitor General and moves the Court for leave to reinstate this cause upon the docket of this Court and the Court being fully advised in the premises grants said motion; It is therefore considered and adjudged by the Court that this cause be and the same hereby is reinstated upon the docket of this Court, and the cause set for hearing on Monday Augt 23rd 1897.

729. United States of America Plff in Error vs. Frank Lesnet et al defts in error } Error to the Fifth Judicial District Court

This cause coming on to be heard on the Transcript of record, assignment of errors, and briefs of Counsel on file, and after hearing arguments by W. B. Childers and Geo R. Money Esqrs for Plaintiff in error and E. V. Chavez Esq for defendants in error, is submitted to the Court and the Court not being sufficiently advised in the premises, takes the same under advisement.

680. M W Flournoy et al appellants vs. Bullock, Baker & Company and George W Champion appellees } Appeal from Bernalillo County

This cause coming on to be heard upon the Transcript of record, assignment of errors and briefs of Counsel on file, is jointly argued -

Twenty Fourth Day, Saturday Augt 21st A. D. 1897

739

A. W. Rice et al
appellees
vs.
John W Schofield et al
appellants.

} Appeal from Bernalillo County.

This cause coming on to be heard upon the Transcript of record, assignment of errors, and briefs of Counsel on file, to partly argued.

It is ordered that Court do now adjourn until Monday Morning at 10 o'clock

Thomas Smith
Chief Justice

Twenty fifth Day. Monday Augt 23rd A.D. 1897.

Court convened pursuant to adjournment

Present as upon Saturday

The record of Saturday's proceedings is read and approved.

737

Territory of New Mexico
appellant
vs
The United States Trust Company
of New York and Charles H Smith
Receivers of Atlantic and Pacific Railroad
Company.
appellees.

Appeal from District Court for Bernalillo County

This cause having been submitted to and taken under advisement by the Court at a former day of this present term on the motion of appellees to affirm the Judgment of the Court below, the Court being now sufficiently advised in the premises announces its decision by Chief Justice Smith, the Associate Justices concurring, denying said motion, and affirming the Judgment of the Court below, upon the authority announced in Cause No 670 on the docket of this Court entitled, The United States Trust Company of New York, and C. H. Smith Receivers of the property of the Atlantic and Pacific Railroad Company vs Atlantic and Pacific Railroad Company et al, in the matter of the intervening petition of the Territory of New Mexico, It is therefore considered and adjudged by the Court that the Judgment of the District Court of the County of Bernalillo, whence this cause came into this Court, be, and the same hereby is affirmed, upon the authority above stated, and in accordance with said Judgment, of said District Court, It is ordered, adjudged and decreed, that the said intervening petition be and the same hereby is dismissed, And thereupon the appellant herein prays the Court for an appeal to the Supreme Court of the United States of America from the order and decree of this Court, it is therefore ordered by the Court that the appellant herein, The Territory of New Mexico, be and it hereby is allowed an appeal from the said order and decree of this Court to the Supreme Court of the United States of America.

733. Territory of New Mexico
appellant
vs.
The United States Trust Company of New York and Charles M. Smith, Receiver of Atlantic and Pacific Rail road Company.
appellees.

Appeal from District Court for Bernalillo County.

This Cause having been submitted to and taken under advisement by the Court at a former day of the present term on the motion of Appellant to affirm the Judgment of the Court below, the Court being now sufficiently advised in the premises announces its decision by Chief Justice Smith, the Associate Justices concurring, denying said motion, and affirming the Judgment of the Court below, upon the authority announced in Cause No 670 on the docket of this Court, entitled, The United States Trust Company of New York and Chas. M. Smith receiver of the Property of the Atlantic and Pacific Railroad Company Vs Atlantic and Pacific Railroad Company et al, in the matter of the intervening petition of the Territory of New Mexico. It is therefore considered and adjudged by the Court that the Judgment of the District Court of the County of Bernalillo, wherein this Cause came into this Court be, and the same hereby is affirmed, upon the authority above stated, and in accordance with said Judgment of said District Court, it is ordered, adjudged and decreed, that the said intervening petition be and the same hereby is dismissed. And thereupon the appellant herein prays the Court for an appeal to the Supreme Court of the United States of America from the order and decree of this Court; it is therefore ordered by the Court that the appellant herein, the Territory of New Mexico, be and it hereby is allowed an appeal from the said order and decree of this Court to the Supreme Court of the United States of America.

680 M W Flournoy et al
appellants
vs
Bullock, Baker & Company and George W Champion
appellees

Appeal from Bernalillo County

This Cause coming on to be heard, the Court hears the remainder of the Arguments, and the Cause is submitted

to and taken under advisement, the Court not being sufficiently advised in the premises.

A. W. Rice et al
appellees
vs.
739. John M. Schofield, Reciver et al
Appellants.

Appeal from the District Court for Bernalillo County

This cause coming on to be heard, the Court hears the remainder of the arguments, and the cause is submitted to and taken under advisement, the Court not being sufficiently advised in the premises.

The Santa Fe Gas and Electric Company and Santa Fe Electric Company.
vs.
736 C. L. Whitcomb.
appellee

Appeal from District Court for Santa Fe County

This Cause coming on to be heard upon the transcript of record, assignment of errors and briefs of Counsel on file, is argued by E. L. Bartlett and E. A. Fiske Esqrs for appellants and John S. Knaebel and George W. Knaebel Esqrs for appellee, and submitted to the Court, and the Court not being sufficiently advised in the premises takes the same under advisement.

Territory of New Mexico
appellee
vs.
626. Pedro A. Garcia.
appellant

Appeal from District Court of Bernalillo County

Now come said appellee by her Solicitor General and said appellant though now three times solemnly called comes not but makes default, and it appearing to the Court, that the said appellant Pedro A. Garcia, as principal, and Andres Romero and Melchor Chavez, as sureties, on the 19th day of April A.D. 1895, entered into a recognizance into the Territory of New Mexico in the sum of Four thousand dollars, conditioned for the appearance of the said Pedro A. Garcia before the Supreme Court of the Territory of New Mexico, to answer the Judgment on the appeal and

and abide its decision and order himself in execution and obey every order and judgment which may be made in the premises, the said Andres Romero and Melitón Chavez an each now three times solemnly called and an orginal to produce the body of the said appellant, Pedro A Garcia in open court under the penalty of the forfeiture of said bond; and they come not, nor produce his body, but make default, and thereupon the Court declares said bond forfeited. It is therefore considered and adjudged by the Court that said appellee, the Territory of New Mexico, recover of said Andres Romero and Melitón Chavez the sum of Four thousand Dollars the penalty of said bond.

It is ordered that Court do now adjourn until tomorrow morning at 10 o'clock.

Thomas Smith
Chief Justice

Twenty sixth. Day. Tuesday Augt 24th AD 1897.

Court meets pursuant to adjournment

Present as upon Yesterday.

The record of yesterdays proceedings is read and approved.

United States of America
Appellant

753. Vs

The Rio Grande Dam and Irrigation Company et al.
Appellees.

Appeal from the Third Judicial District Court

This Cause coming on to be heard upon the Transcript of Record, assignment of errors and briefs of Counsel on file, and the Court hears argument by W. B. Childers Esq for Appellant and A. A. B. Fall W. A Hawkins and W B Newcomb Esqrs for appellees and the Court not being sufficiently advised in the premises takes the same under adviesment.

It is ordered that Court do now adjourn until tomorrow morning at 10 oclock.

Thomas Smith.
Chief Justice.

Twenty seventh Day. Wednesday Augt. 25th A.D. 1897.

Court meets pursuant to adjournment.

Present as upon yesterday.

The record of yesterday's proceedings is read and approved.

631. United States of America
Appellee
vs
Joseph Routledge
appellant.
} Appeal from First Judicial District.

This cause having been taken under advisement by the Court at a former term upon a motion for a rehearing, announces its decision denying said motion, It is therefore considered and adjudged by the Court that the motion for rehearing herein be and the same hereby is denied.

673 Early Times Distillery Company et al
appellant
vs
Charles Zeiger et al
appellees.
} Appeal from Bernalillo County.

It is ordered by the Court that the motion for rehearing herein be and the same hereby is denied.

674 Early Times Distillery Company. et al.
Applellant
vs
Charles Zeiger et al.
appellees.

It is ordered by the Court that the motion for rehearing herein be, and the same hereby is denied.

740 In Re.
Application of Roe Chung.
} For writ of Prohibition

This cause having been taken under adviseument by the Court at a former day of the present term, announces its decision by Associate Justices Collier Chief Justice Smith and Associate Justices Laughlin, Hamilton and Bantz concurring, denying the appli-

cation for the writ of Prohibition, It is therefore ordered and adjudged by the Court that the application for the writ of Prohibition herein be, and the same hereby is denied and that the applicant Roe Blum pay the costs herein, to be taxed, for which let execution issue.

G. Wormser & Co.
Plaintiffs in error.
vs. 654
Sigmund Lindauer.
Deft in error
} Error to District Court of Grant County.

This cause having been submitted to the Court on the briefs of Counsel filed herein at a former day of the present term and taken under advisement by the Court and the Court being now sufficiently advised in the premises announces its decision by Associate Justice Collier, Chief Justice Smith and Associate Justices Laughlin concurring, Associate Justices Hamilton and Bantz not sitting, affirming the Judgment of the Court below for reasons stated in the Opinion of the Court on file: It is therefore considered and adjudged by the Court, that the Judgment of the District Court for the County of Grant whence this cause came into this Court, be and the same hereby is affirmed, and that in accordance therewith it is ordered by the Court this cause be and the same is hereby dismissed and that said defendant in error, Sigmund Lindauer, do have and recover from said plaintiffs in error. G. Wormser and Isaac Wormser, doing business under the firm name and style of G. Wormser & Company his costs in this behalf expended, as well in the Court below as in this Court, to be taxed, and that execution issue therefor.

New Mexico National Bank
Plff in error
vs. 710
George L. Brooks.
Deft in error.
} Error to District Court of Socorro County

This cause having been argued and submitted to and taken under advisement by the Court at a former day of the present term and the Court being now sufficiently advised in the premises announces its decision by Associate Justice Laughlin, Chief Justice Smith and Associate Justices Collier and Bantz

Concurring, reversing the Judgment of the Court below for reasons stated in the opinion of the Court on file It is therefore considered and adjudged by the Court that the Judgment of the District Court of the County of Socorro, whence this cause came into this Court be and the same hereby is reversed and remanded with directions to the Court below to direct the Clerk to pay to the plaintiff in error, the New Mexico National Bank the $400.00 now in his hands, less the costs of the Garnishment proceedings. and it is further ordered by the Court that Plaintiff in error, The New Mexico National Bank do have and recover of the defendant in error George L Brooks, its cost in this behalf expended to be taxed for which let execution issue.

737

Territory of New Mexico
appellee
vs
Jose Chavez y Chavez
appellant.

Appeal from District of San Miguel County.

This cause coming on to be heard upon the Transcript of record, assignment of errors, and briefs of Counsel on file, is argued by Mr. Reeder & Veeder. for Appellant and W. H. Pope Esq for the Appellee and submitted to the Court, and the Court not being sufficiently advised in the premises takes the same under advisement.

717

Ex Parte,
In the matter of the
Application of Leonard Lewisohn
et al for writ of Certiorari

This cause having submitted to and taken under advisement by the Court on a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Collier, Associate Justices Hamilton and Bantz concurring, Chief Justice Smith dissenting, discharging the writ herein. It is therefore considered and adjudged by the Court that the writ herein be and the same hereby is discharged and it is further ordered that the petitioners Leonard Lewisohn et al pay the costs of this proceedings to be taxed, for which let execution issue.

Twenty Seventh Day, Wednesday Augt 25th A. D. 1897

714

William P. Cunningham, Sheriff of Santa Fe County, and Mandell Bros. Plffs in error
vs
Louis D. Dugar
Deft in error
} Error to Santa Fe County

This Cause having been submitted to and taken under advisement by the Court at a former day of this present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Bantz, Chief Justice Smith, and Associate Justices Collier and Hamilton concurring, reversing and remanding this cause to the Court below with directions to grant a new trial therein, for reasons stated in the opinion of the Court on file, It is therefore considered and adjudged by the Court that the Judgment of the District Court for Santa Fe County, wherein this cause came into this Court, be and the same hereby is reversed and remanded with directions to the said District Court to grant a new trial therein, and it is further ordered and adjudged by the Court that the Plaintiffs in error do have and recover of the defendant in error their costs in this behalf expended, to be taxed, for which let execution issue.

738

Horse Springs Cattle Company
Appellant
vs
John W. Schofield and H. A. Hays.
Appellees.
} Appeal from Bernalillo County.

This Cause having been argued and submitted to and taken under advisement by the Court at a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Bantz, Chief Justice Smith and Associate Justice Laughlin, concurring, Associate Justices Collier and Hamilton not sitting, reversing and remanding this Cause to the Court below for reasons stated in the opinion on file. It is therefore considered and adjudged by the Court that the Judgment of the District Court for the County of Bernalillo wherein this Cause came into this Court be and the same is hereby reversed and remanded with directions to proceed in

accordance with the opinion filed herein, It is further ordered and adjudged that the Appellant herein the Horse Springs Cattle Company do have and recover its costs in this behalf expended as well in the Court below as in this Court, to be taxed, and that execution issue therefor.

755 In the Matter of the Committee on Rules for the Supreme & District Courts.

The Court having considered the report of the Committee on Rules filed in this Court on the 11th day of August together with the proposed Rules submitted by the Committee and the amendments and suggestions proffered by members of the Court and the Bar thereto, It is Ordered that the said Rules as amended be adopted and promulgated as the Rules of this Court and the District Courts of this Territory, to be in force and effect from and after the First day of September A.D. 1897. That the Clerk of this Court record the same and cause Two hundred copies of the same to be printed in pamphlet form, properly indexed, and paged and deliver the same to members of the Bar of this Court as they may be called for. It is further ordered, that the expense of recording, indexing, printing and distributing said Rules, is a necessary expense of this Court and is to be paid out of the Territorial printing expense fund.

753 United States of America
Appellant
vs.
The Rio Grande Dam & Irrigation Company et al

Appeal from the Third Judicial District Court.

This cause having been argued and submitted to and taken under advisement by the Court at a former day of the present term and the Court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith, Associate Justices Collier, Hamilton and Laughlin Concurring, Associate Justice Bantz not sitting, affirming the Judgment of the Court below, for reasons stated in Open Court, and that writ

appear more fully in the Opinion to be filed herein
It is therefore ordered, adjudged and decreed by the
Court that the Judgment of the district Court of the third
Judicial District in the Territory of New Mexico, ~~the~~
wherein this cause came into this Court, be and the
same hereby is affirmed, and in accordance
with said Judgment of said District Court it is
ordered, adjudged and decreed that the said
injunction, heretofore issued herein be dissolved and
that said cause be, and the same hereby is dismissed
and that the defendants do have and recover their
reasonable costs herein, as well in the Court below as
in this Court, to be taxed, for which let execution issue.
And thereupon the Appellant herein by her Attorney
William B Childers Esq prays an appeal to the Supreme Court of the United States, from the Judgment
and decision of this Court, it is therefore ordered,
that the Appellant herein be and hereby is allow-
ed an appeal to the Supreme Court of the United
States, from this Judgment and decision.

Rules of Supreme Court

Rule. 1.
Clerk.

1. The Clerk of this Court shall reside and keep his office at the seat of the Territorial government, and he shall not practice as an attorney, Solicitor or Counselor in this Court or the District Courts of this Territory, while he shall continue to be Clerk of this Court.

2. The Clerk shall not permit any original record or paper to be taken from the Court room, or from the office, without an order from the Court.

Rule II
Attorneys and Counselors at law.

1. It shall be requisite to the admission of attorneys and Counselors at law to practice in the Supreme and District Courts of this Territory, that they shall be citizens of the United States, or shall have declared their intention to become citizens; that they shall be of good moral character, over twenty one years of age, and bona fide residents of New Mexico, and shall have been duly admitted to practice by the Supreme Court.

Twenty Seventh Day, Wednesday Augt 25th A. D. 1897.

2: Applicants for admission must file with the clerk of the Supreme Court, a petition under oath setting forth the date and place of birth, their place of residence for the five years immediately preceding, and at the time of filing said petition, which petition must be accompained by the artificate of some reputable Attorney or Counselor of this Court or other credible person, that the applicant is a person of good moral character. In case the applicant has been admitted to practice by the highest Court of original Jurisdiction of some other State or territory, his petition shall state the name of such Court and the date of his admission, and the length of time he has been engaged in active practice in the Courts of record of any other State or territory, and that he has never been disbarred or suspended from practice for unprofessional conduct, which petition shall be accompanied by a certificate of his admission to said ~~Supreme~~ Court. If suspended or disbarred he may show that he has been restored by the same court which made the original order. In case the applicant has never been admitted to practice his petition shall state in detail when, where and how long he has been engaged in the study of the law and the text books studied. If he is a graduate of a law school his petition shall so state and shall be accompanied by his diploma or other evidence showing such graduation. If he is not a graduate of a law school his petition shall state the name and residence of the attorneys and Counselors at law, in whose offices or under whose supervision he pursued his studies and shall be accompanied by the certificate or certificates of such attorneys and Counselors or other satisfactory evidence to the effect that said applicant has continuously and diligently studied law for the period of at least two years.

3: Applicants who have been admitted to practice by the highest Court of original Jurisdiction of any other State or territory, and who have been actively engaged in practice in the Courts of record of any State or Territory for the period of at least three years immediately preceding, shall be admitted to practice by the Supreme Court without examination. All other applicants shall be required to pass an examination as hereinafter provided.

4: The Supreme Court shall appoint a standing Committee of five members of the bar of said Court, whose duty it shall be to prepare the questions for, and assist the Court in conducting the examination of applicants.

5: On the (first) day of each regular term of the Supreme Court and at such other times during the year as the Court may from

time to time designate, all applicants whose petitions are on file, and who are required to be examined, shall be examined in open Court upon the following subjects, to wit: Real and personal property, Contracts, partnership, negotiable instruments, agency, principal and surety, executors and administrators, bailments, Corporations, personal rights, domestic relations, the Principles of Constitutional law, Wills, equity Jurisdiction, pleadings, practice, evidence and criminal law.

6: Such examination shall be partly oral and partly written, the same questions for the written examination being propounded to each applicant then undergoing examination.

7: All applicants when admitted shall sign the roll and take the following oath or affirmation. "I, ——, do solemnly swear (or affirm) that I will demean myself as an attorney and Counselor in all the Courts of this Territory uprightly and according to law and that I will support the Constitution of the United States"

8. The clerk of the Supreme Court shall furnish each applicant admitted with a suitable Certificate of admission which shall entitle him to practice in all the Courts of the Territory.

9: Every person admitted to practice shall pay the clerk the sum of $5.00 as his fee for issuing the certificate of admission.

10: A justice of the Supreme Court upon retiring from the bench may practice as an attorney and Counselor at law in all the Courts of this Territory by signing the roll and taking the official oath.

11: Any attorney who shall be dismissed or suspended from practice by this Court or either of the District Courts of this Territory shall be thereby disqualified from practicing in this Court or either of the District Courts which such disability continues: - Provided, That when any attorney shall be so suspended or dismissed by a District Court, the Court ordering the same shall certify to the Supreme and District Courts the order of dismissal or suspension, together with the Cause thereof; and when an Attorney is suspended by a District Court he shall not be restored to practice in the Court from which he was originally suspended or dismissed without the consent of the Judge of said court.

12: All attorneys who have been admitted to practice while bona fide residents of the Territory shall not be precluded from practicing in any of the Courts of the Territory by reason of their subsequent removal from the Territory.

13: Members of the Bar of other States and Territories may be permitted to practice in particular cases in the Supreme or District Courts when associated in such cases with members of the Bar of this Territory; such permission shall be entered of record and shall only extend to the particular case in which such permission is granted. Provided, that all pleadings and notices shall be signed by a member of the bar of the Court in which the litigation is pending.

14: The several District Courts of this Territory shall have power to issue to any proper person who proposes to apply for admission to the bar in accordance with these rules, a temporary license to practice law in the Courts of this Territory, upon such terms and conditions as shall appear to the Judge of such Court sufficient for the protection of the Court and bar, such license to expire on the first day of the term of the Supreme Court next after the issue of said license unless the Supreme Court for good cause shown shall extend the time of such temporary license.

Rule III

1: All motions, affidavits and other papers filed and all orders made during the pendency of any suit in the District Court, shall be considered a part of the record of said cause without being incorporated in a bill of exceptions; but only such motions, affidavits and papers and orders which may be necessary for a proper determination of questions or issues to be reviewed in the Supreme Court upon appeal or writ of error, shall be incorporated in the transcript of the record transmitted to it.

2: Whenever it is desired to review the action of the trial Court upon any point or points not involving all of the record and evidence offered on the trial, the appellant or plaintiff in error may serve upon the opposite party, according to the provisions of the Code, a transcript of all the record and evidence upon such point or points; the appellee or defendant in error may serve upon the appellant or plaintiff in error any portion of the record or evidence which he claims to have been omitted and to be necessary to a proper review of the question or questions to be raised; and the Judge of the trial Court shall determine whether

such transcript contains all the record or evidence upon such point, and may require the addition of any portion thereof which he deems to have been omitted. Whereupon the Judge of the trial Court shall certify to the Supreme Court that the transcript as so settled contains all the record and evidence upon the point or points specified. The appellant or plaintiff in error shall file in the office of the Clerk of the District Court, a praecipe setting forth the questions he desires to have reviewed and those portions of the record and proceedings he deems necessary to such review, and he shall be bound in the Supreme Court by the praecipe so filed. If in such case the opposite party desires to take up more of the record or evidence than the Trial Judge determines to hear upon the points to be reviewed, he may have the additional evidence or parts of the record certified by the Judge filed in the Clerk's Office and by him certified with the rest of the record, and cause the same to be filed in the Supreme Court at his own expense in the first instance, and if the Supreme Court shall hold that the same was necessary to a proper hearing of the case, such expense shall afterwards be taxed in the Supreme Court as other costs in the case. In case the whole evidence is taken up, it shall not be necessary for the Trial Judge to certify, but he may do so upon the request of either party. When the transcript of the record transmitted to the Supreme Court upon an appeal or writ of error shall contain portions of the record not necessary for a proper determination of the questions or issues to be reviewed by the Supreme Court, the costs of transcribing or printing such unnecessary portions of the record will be taxed against the party procuring the same.

3. No certiorari for diminution of the record shall be allowed in any cause unless a motion therefor shall be made in writing, and the facts on which the same is founded shall, if not admitted by the other party, be verified by affidavit, and all motions for such certiorari shall be made at the first day of the term of the entry of the cause, otherwise the same shall not be granted unless upon special cause shown to the Court accounting satisfactorily for the delay.

4. The applicant or plaintiff in error shall not be heard to suggest a diminution of the record or to ask for a certiorari to supply such diminution in any case when such plaintiff in error has caused to be certified to this Court less than the entire record, unless such suggestion or motion shall be made on the first day of the term to which the appeal or writ of error is returnable, and shall be accompanied by an affidavit setting forth reasons satisfactory to the Court for the omissions of the same, from the transcript. When neglect

to include the desired portion of the record in the praecipe shall not be sufficient cause for the award of the certiorari applied for.

Rule IV

Motions

All Motions shall be reduced to writing.

Rule V

Citation and return to appeal and writ of error.

1. Citation upon appeal and writ of error shall be served, either on the defendant in error or appellee or his Attorney of record, in the lower Court, at least five days before the first day of the term to which the writ of error or appeal is returnable: Provided, however, That where the defendant in error or appellee is not a resident of the Territory and has no attorney of record residing within the Territory, the citation shall be served by mailing to the last known address of the defendant or appellee a copy of the citation by the Clerk issuing the citation.

2. The Clerk of the Court in which any appeal shall be allowed, or to which a writ of error shall be directed, shall make return of the same by transmitting a true copy of the record and of all proceedings in the cause, under his hand and the seal of the Court; and whenever printing is required by law, the appellant or plaintiff in error shall, on or before the first day of the term to which the case is returnable, file with the Clerk of this Court ten printed copies of said record and proceedings, and serve two copies thereof on the adverse party, his attorney or counsel.

3. No cause will hereafter be heard until a complete record, containing in itself, without reference elsewhere, all the papers, exhibits, depositions and other proceedings which are necessary to the hearing in this Court, shall be filed.

4. Whenever it shall be necessary or proper in the opinion of the Judge of any District Court that original papers of any kind should be inspected in this Court upon appeal or writ of error, such Judge may make such rule or order for the safe keeping, transporting and return of such original papers as to him may seem proper, and this Court will receive and consider such original papers in connection with the transcript of the proceedings.

5. When appeal or writ of error is duly taken by both parties, a transcript of the record filed by either may be used on both hearings and they shall both be heard thereon in the same manner as if

records had been filed by the appellants or plaintiffs in error in both cases.

Rule VI

docketing Causes.

The Clerk shall enter causes upon the docket in the order in which the transcripts in causes brought up by appeal, or the praecipes for writs in causes brought up by writs of error, are filed in his office, specifying upon the docket the date of the allowance of the appeal, or of the issuance of the writ of error.

Rule VII

Translations

Whenever any record transmitted to this Court upon a writ of error or appeal shall contain any document, paper, testimony, or other proceedings in a foreign language and the record does not also contain the translation of such document, paper, testimony or other proceedings, made under the authority of the District Court, the record shall not be received, but the case shall be reported to this Court by the Clerk, and the Court will thereupon remand it to the District Court in order that a translation may be there supplied and inserted in the record.

Rule VIII

No appearance of Plaintiff.

When there is no appearance for the plaintiff in error or appellant when the cause is called for trial, the defendant may have the plaintiff in error or appellant called, and dismiss the writ of error or appeal, or may open the record and pray for an affirmance.

Rule IX

No appearance of Defendant.

When the defendant in error or appellee fails to appear when the cause shall be called for trial, the Court may proceed to hear an argument on part of the plaintiff in error or appellant, and to give Judgment according to the right of the case.

Rule X

No appearance of either Party.

When a cause is reached in the regular call of the Docket and no appearance is entered for either party the case shall be dismissed at the cost of the plaintiff in error or appellant.

Rule XI.

Written Party ready at second term

Twenty-seventh Day, Wednesday Augt 25th A. D. 1897.

When a case is called for argument at two successive terms, and upon the call at the second term neither party is prepared to argue it, it shall be dismissed at the cost of the plaintiff in error or appellant, unless sufficient cause is shown for further postponement.

Rule XII

Printed argument.

In all cases brought into this Court by appeal, writ of error or otherwise, the Court will receive printed arguments without regard to the number of the case on the docket, if the Counsel on both sides shall choose to so submit the same within the first ten days of the term, but ten copies of such arguments signed by Attorneys or Counselors of this Court must be filed.

Rule XIII

Arguments.

Arguments in causes will be limited to two hours on each side, unless by special order time is extended. Not more than two Counsel will be permitted to speak on a side.

Rule XIV

assignment of errors

Assignment of errors shall be written on a separate paper, and filed in the Cause, and shall also be copied into the brief of appellant or plaintiff in error. Such assignment of errors shall contain the title of the cause and of the Court from which the case comes. Each error relied upon shall be stated in a separate paragraph.

Rule XV.

Briefs.

1: Counsel will not be heard unless a printed brief or abstract of the cause be first filed, together with the points intended to be made, and the authorities cited in support of them, arranged under the respective points.

2: The same shall be signed by an attorney or Counselor of this Court.

3: If one of the parties omits to file such a statement he cannot be heard, and the case will be heard ex parte upon the argument of the party by whom the statement is filed.

4: Ten printed copies of the abstract, points, with authorities cited by this rule shall be filed with the Clerk, and two copies thereof

shall be served on the adverse party, his attorney or Counsel, by the plaintiff in error or appellant at least ten days before the case is set for argument, and by the defendant in error or appellee at least three days before the case is set for argument.

Rule XVI

Printing — costs.

1: All records, briefs and arguments which are required to be printed shall be legibly printed with black ink on white book paper of good quality, properly paged at the top, with a margin at the outer edge of the page of at least an inch and a half. The printed page shall not be less than seven inches long and three and a half inches wide, and the paper page shall be not more than nine inches long and seven inches wide. Each printed record, brief or argument shall be properly bound with paper or cloth cover, on which shall be printed the title of Court and Cause.

2: There shall be taxed as costs for printing the transcript of the record its actual reasonable cost, together with fifteen cents per folio of one hundred words for the original transcript of the stenographer's notes as now provided by law, and three cents per folio for one additional copy thereof, which sum is hereby fixed as the compensation of stenographers for each of such extra copies.

Rule XVII

Order of argument.

The plaintiff in error or appellant shall be entitled to open and conclude the argument; but when there are cross appeals, they shall be argued together as one case, and the plaintiff in the Court below shall be entitled to open and conclude the argument.

Rule XVIII.

Damages.

In cases when a writ of error or appeal prosecuted to this Court shall delay the proceedings on the Judgment of the District Court, and shall appear to have been taken or sued out merely for delay, damages shall be awarded to the appellee or defendant in error at the rate of ten per cent on the amount of the Judgment.

Rule XIX.

Opinions of the Court.

All opinions by the Court shall, immediately upon the announcement thereof, be delivered to the Clerk to be recorded and filed, and

he shall immediately notify on counsel of record on each side, of the decision.

Rule XX.

Call of the docket

1: All cases on the Calender, except cases advanced as hereinafter provided, shall be heard when reached in the regular call of the docket and in the order in which they are set.

2: Criminal cases and cases which involve or affect some matter of general public interest or policy may be advanced by leave of the Court, on motion of either party.

3: Two or more cases involving the same question may, by leave of the Court, be heard together, but they must be argued as one case.

Rule XXI

Motion for rehearing

A Motion for rehearing after Judgment, can be presented only at the term at which the Judgment is entered, unless by special leave granted during the term and must be filed within ten days after such Judgment, if the term shall so long continue. No motion for rehearing shall be filed unless in the ground or grounds of said motion it shall distinctly point out, that some question decision of the cause, and duly submitted by counsel, has been overlooked by the Court, or that the decision of the Court is in conflict with some controlling decision or provision by Statute to which the attention of the Court has not been called through the oversight or neglect of counsel. Such motion shall be considered by the Court with out oral argument but may be support by a printed brief, but will not be granted or permitted to be argued unless a Justice who concurred in the Judgment desires it and a majority of the Court so determines.

Rule XXII

Supersedeas.

Upon the filing in the office of the Clerk of a praecipe for a writ of error, and upon the approval of and filing by the Clerk, within ninety days after the rendition of Judgment, of the bond required by law as a prerequisite to a stay of execution or supersedeas, it shall be the duty of the Clerk immediately to certify under his hand and the seal of said Court the fact of his having approved and filed such bond in his office and to transmit such certificate to the Clerk of the District Court in which the Judgment was rendered, and execution upon the Judgment shall be stayed, until the decision of this Court can be had. Of

execution shall have issued from the District Court upon such certificate of the Clerk of this Court is received, the Judge of the District Court shall supersede such execution upon the application of any interested party, but such party shall be required to lodge the writ of error in the District Court and to produce such certificate as aforesaid before he shall have any supersedeas.

Rule XXIII

Service of papers.

Service of papers shall be made in the manner provided by law for such service in the District Courts.

Rule XXIV.

Regulating Practice of United States Commissioners.

1: United States Commissioners shall hereafter send or deliver all warrants issued by them to the United States Marshal for the Territory, and no warrant shall be served by any deputy marshal unless received directly from the Marshal's office, unless the delay incident to the transmission of the warrants to the Marshal and the delivery of it by him to his deputy would defeat the ends of Justice. In such cases of emergency, Commissioners may place the writs in the hands of the deputy marshal most accessible, and an immediate report of the issuance of the same shall be made by the deputy marshal to the Marshal and by the Commissioner to the United States attorney.

2: In all cases of prosecutions for offenses under "the act of Congress of March 3. 1887, relating to adultery and other crimes, commonly called the Edmunds act," before any writ shall be issued by a commissioner, the sworn Complaint, together with the facts in the case, shall be forwarded to the United States attorney and his approval of the issuance of such writ by the commissioner obtained, before its delivery to the United States Marshal for service, and said commissioner shall also state to the United States Attorney, in writing, some good reason for the apprehension and commitment of the defendant in advance of an investigation of the case by the grand Jury. No such writ shall be served until its issuance has been approved by the United States attorney, except in case of emergency when there is imminent danger of the escape of the defendant prior to the meeting of the grand Jury.

3: In all cases of prosecutions under the internal revenue laws the Warrant, if issued otherwise than at the instance of the United States Attorney, the Collector of internal revenue, or his deputy or agent, must be upon sworn Complaint, setting forth the facts

constituting the offense and alleges in addition thereto that the facts are within the personal knowledge of the affiant, and in all cases such warrant, when issued otherwise than at the instance of the officers above mentioned, must, before service and arrest, be approved by one of the Judges of the Supreme Court, or the Attorney of the United States, except in cases of emergency when there would be great danger of the escape of the defendant, and in such cases such approval must be obtained immediately after the issuance and service of such warrant.

4. Whenever process in any case in which the United States is a party shall be issued by any Clerk of any District Court in this Territory, such process shall be delivered or sent to the Marshal for this Territory, unless otherwise ordered by the United States attorney, or that immediate service is necessary, in which event process may be delivered to the deputy designated by the Marshal who may be expeditiously reached. When it is sent or delivered to a deputy it shall be the duty of the Clerk to immediately report the same to the Marshal's Office giving sufficient information to enable the Marshal to enter the same upon his docket.

Rules of Practice for the District Courts.

Rule I

An attorney may changed by consent or upon cause shown and upon such terms as shall be just, upon the Application of the client, by the order of the Court, and not otherwise.

Rule II

No private agreement or consent between the parties or their attorneys or Counsel, in respect to the proceedings in a cause, shall be binding unless the same shall have been reduced to the form of an order by consent, and entered, or unless the evidence thereof shall be in writing, subscribed by the party against whom the same shall be alleged or by his attorney or Counsel.

Rule III

No default or Judgement regularly tried shall be set aside unless the motion therefor shall be filed and a copy thereof served upon the opposite party during the term at which it was entered, or in case of Judgments entered in vacation,

within ten days after the entry thereof and upon complying with the requirements of Statutes as to such motion.

Rule IV

It shall not be necessary to call the plaintiff when the Jury return to the bar to deliver their verdict, and the plaintiff shall have no right to submit to a non-suit after the Jury has gone from the bar to consider their verdict.

Rule V

In every cause originating in the Probate Court or Justice's Court and brought into this Court by appeal or certiorari, either party, after the return is filed by the Clerk and the cause docketed, upon filing his affidavit or that of his attorney, showing that the return is defective and specifying the defect or defects therein, shall have an order of course to the Probate Court or Justice's Court requiring the Probate Clerk or Justice to amend the return in the particulars specified in the affidavit and file such amended return with the Clerk on or before a day to be specified in such order, or, in default thereof, to show cause on that day why the return should not be amended as required by the Order. But such order shall not be entered without leave of the Court after the sixth day of the term of the Court at which the cause shall be first docketed.

Rule VI

In causes originating in Probate Courts or Justice's Courts, and brought into the District Court by appeal or certiorari, if the appellant or plaintiff in error shall not procure the cause to be docketed on or before the third day of the term at which the return shall be made, the appellee or defendant in error may, on motion, have the cause docketed and the appeal or certiorari dismissed, or, at his election, he may have the Judgment below affirmed, and Judgment rendered for the same with costs, against the appellant or plaintiff in error and his sureties.

Rule VII

Whenever any cause originating in a Probate Court or Justice Court shall be regularly called on the docket, and the plaintiff below, if he shall be appellant or plaintiff in error, shall not appear to prosecute his suit, the defendant may have the plaintiff called and the cause, appeal or certiorari dismissed for want of prosecution, and when the defendant below

shall have taken the appeal or sued out the writ of certiorari, and shall fail to appear when the cause is regularly called on the docket, the plaintiff may have the appeal or certiorari dismissed, or, at his election, may have the judgment below affirmed, and judgment rendered for the same, with costs, against the defendant and his sureties.

Rule VIII

Whenever a Judge or other officer approves the security to be given in any case, or reports upon its sufficiency, it shall be his duty to require personal securities to satisfy, or, if the security offered is by way of mortgage on real estate, to require proof of the value of such real estate; and all bonds, undertakings and other securities in writing, shall be duly acknowledged in like manner as deeds of real estate, before the same shall be received or filed.

Rule IX

No change of Venue shall be granted in a civil case unless the motion for the same shall be made at the term the cause is first docketed, or in case of a motion for a second change of Venue under Statute such motion shall be made at the first term of the Court after such first change held in the County to which the venue shall have been changed, and in criminal cases no change of venue shall be allowed unless the motion for such change shall be made at or before the first term of the Court succeeding that at which the indictment shall have been presented, and in case of a motion for a second change such motion shall be made at the first term of the Court subsequent to such first change held in the County to which the venue shall have been changed. But if upon an application for a change of venue, civil or criminal, at any term subsequent to those above mentioned it shall be made to appear to the satisfaction of the Court, by affidavit, that the facts upon which the application is based have come to the knowledge of the applicant since the last previous continuance of the cause, then the application shall be heard as though made at the time above specified. On motions for change of venue the Judge may examine the supporting witnesses upon oath as to their knowledge and interest, and may determine the sufficiency of the affidavit accordingly.

Rule X

The Court may in all cases order a bill of particulars of the claim of either party to be furnished, and if the same shall not be furnished within the time prescribed by the order, the defaulting party shall

be precluded from giving evidence of his claim.

Rule XI

All pleadings and other proceedings shall be fairly and legibly written, without any material alterations, erasures or interlineations, and consecutively numbered in paragraphs, and if not so written as aforesaid the Clerk shall not file the same, nor will the Court hear any motion or application founded thereon.

Rule XII.

In no case shall any member of the bar be accepted as surety upon any bond or security for costs. No advance fee or deposit shall be required by the Clerks of the District Courts in any suit filed, but the Clerk shall require parties at whose instance papers are filed, process issued or other service performed to pay in advance the Clerk's fees prescribed by law for rendering such service.

Rule XIII

1. In attachment suits the Plaintiff, either in person or by his agent or attorney, or requiring any person to be summoned as garnishee therein, at the time of issuing the writ, shall, at or before issuing the same, sign and file with the Clerk a request in writing that such person (naming him) be summoned as garnishee therein.

2. The Clerk thereupon, and not otherwise, shall be authorized and required to insert in the writ the name of such person, together with a requisition to the Sheriff to summon him as garnishee.

3. If at any time after issuing and before the return of the writ the Plaintiff, either in person or by his agent or attorney, shall require any person other than those named in the writ to be summoned as garnishee, he shall sign and deliver to the Sheriff a requisition in writing directing him to summon such person as garnishee in the suit. Such requisition shall be returned by the Sheriff at the time of his return of the writ and filed by the Clerk with the papers in the case.

4. In all cases when either the writ shall contain a requisition to summon garnishees or the Plaintiff shall deliver to the Sheriff a like requisition as hereinbefore specified, or when the Sheriff upon his own knowledge and without such requisition is authorized by law to summon any person as garnishee in any such suit, it is hereby made the duty of the Sheriff and he is hereby required to

endorse on the writ of attachment, or attachments, under his hand a summons directed to the garnishee or garnishees, which summons shall be substantially in the following form: To A.B. and C.D. as garnishees. You, and each of you, are hereby notified and required to be and appear before the Court named in the within writ of attachment, at the return day of such writ, then and there personally to answer under oath such interrogatories as may be exhibited by the plaintiff named in such writ touching any and all personal property, money, debts, credits, bonds, bills, notes, drafts, checks and other evidences of indebtedness due or to become due from you or either of you, to the defendant named in such writ, or belonging to such defendant and in your possession or charge or under your control, or in the possession or charge or under the control of either of you, at the time of the service upon such writ with this notice and summons upon you respectively, or at any time afterwards and before filing of your respective answers to such interrogatories; and you are hereby further notified that the same and each and every part thereof necessary to satisfy the demand of such plaintiff as stated as aforesaid, and that you, and each of you, will be held liable therefor to such plaintiff upon the order and Judgment of the Court in the premises. Dated the ___ day of ___ 18. E. F. Sheriff.

5: The writ of attachment, with such summons endorsed thereon or attached thereto, shall be served on each garnishee named therein and returned by the Sheriff in the same manner as original process in a civil action is by law required to be served and returned; and the same so served and returned shall be deemed a compliance with the statutes in summoning garnishees in such suits, and not otherwise.

6: In all cases when garnishees shall be summoned in such suits, the plaintiff shall be required to exhibit and file his interrogatories and to serve a copy thereof on the garnishee or his attorney on or before the second day of the term at which the writ is returnable, if returnable to a term of Court; and if returnable to a monthly return day, within ten days after such return day, unless the Court, upon cause shown, shall grant further time therefor; And in default thereof within the time specified by this rule or such further time as shall be granted by the Court, the garnishee proceeding shall be discharged at plaintiff's cost.

7: Each garnishee duly summoned shall be required to file his answer to the interrogatories on or before the tenth day after the service of

such interrogatories, unless the Court shall grant further time to answer, upon cause shown; and upon failure thereof within the time fixed by this rule, or such further time thereafter as shall be granted by the Court, he shall be proceeded against as upon default.

5- The like practice shall prevail in garnishee proceedings upon executions, with such omissions, additions and changes as may be applicable thereto; but the notice to the garnishee shall be in terms made returnable to the term of Court next ensuing.

Rule XIV.

All motions, orders and other proceedings made and directed out of term time shall be entered by the Clerk in the record or Journal of the Court on the day when they are made and directed, which record shall be open at all office hours to the inspection of the parties to any suit and their attorneys; and, except in cases when personal or other notice is specially required or directed, such entry shall be deemed sufficient notice to the parties and their attorneys, without further service thereof, of all orders, acts, notices and other proceedings entered in such record touching any and all matters in the suits to and in which they are parties and attorneys.

Rule XV

All motions and applications in the Clerk's office for the issuing of Mesne process and final process to enforce and execute decrees, for filing or amending pleadings, taxing bills of costs, for filing exceptions and for other proceedings in the Clerk's office, which do not by the rules hereinafter prescribed require any allowance or order of the Court, shall be deemed motions and applications grantable of course by the Clerk of the Court, but the same may be rescinded, altered or modified by the Court, upon special cause shown.

Rule XVI.

All motions for rules or orders and other proceedings which are not grantable of course, or without notice, shall be made upon not less than five days notice to the adverse party or his attorney, but the Court may in cases of injunctions grant the same without notice if the nature of the case in the opinion of the Court requires such action. In case of hearing either upon rule to show cause why injunction should not be granted, or, if granted on ex parte showing, continued, the cause shown, both of law and fact shall be by answer, which answer shall not be deemed a pleading in the cause, and to have

served its purpose as such showing, except that the paper may be filed, if party offering same elects, as a pleading in the cause.

Rule XVII

Unless otherwise provided in these rules, or specially ordered by the Court, a writ of attachment, if the defendant be found, and if the defendant cannot be found a writ of sequestration, or a writ of assistance to enforce a delivery of possession, or writ of execution, as the case may require, shall be the proper process to issue for the purpose of compelling obedience to any interlocutory or final order or decree of this Court.

Rule XVIII

Final process to execute any decree may, if the decree be solely for the payment of money, be by a writ of execution in the form used by the District Courts in suits at common law in actions of assumpsit. If the decree be for the performance of any specific act, as, for example, for the execution of a conveyance of land or the delivering up of deeds, or other documents, the decree shall in all cases prescribe the time within which the act shall be done, of which the defendant shall be bound without further service to take notice, and upon affidavit by the plaintiff or his attorney filed in the Clerk's office, that the same has not been complied with within the prescribed time, the Clerk shall issue a writ of attachment against the delinquent party, from which, if executed thereon, he shall not be discharged, unless upon a full compliance with the decree and the payment of all costs, or upon a special order of the Court, upon motion and affidavit, enlarging the time for the performance thereof. If the delinquent cannot be found a writ of sequestration shall issue against his estate, upon the return of non est inventus to compel obedience to the decree.

Rule XIX.

When any judgment, decree or order is for the delivery of possession, upon proof made by affidavit of a demand and a refusal to obey the decree or order, the party prosecuting the same shall be entitled to a writ of assistance from the Clerk of the Court.

Rule XX

Every person not being a party in any cause, who has obtained an order, or in whose favor an order shall have been made shall be entitled to enforce obedience to such order by the same process as if he were a party to the cause, and any person not being a party in any cause, whose obedience to any order of the Court may be enforced, shall be liable

to the same process for enforcing obedience to such order as if he were a party in the Cause.

Rule XXI

When default is made in cases hereafter exclusively cognizable in equity the plaintiff may at his election enter an order as of course that the complaint be taken pro confesso, and thereupon the cause shall be proceeded in ex parte, and the matter of the Complaint may thereupon be decreed by the Court if the same can be done without an answer and is proper to be decreed: or the plaintiff, if he requires any discovery or answer to enable him to obtain a proper decree, shall be entitled to process of attachment against the defendant to compel an answer, and the defendant shall not, when arrested upon such process, be discharged therefrom unless upon filing his answer or otherwise complying with such order as the Court may direct as to pleading, or as to fully answering the Complaint within a period to be fixed by the Court, and undertaking to speed the Cause

Rule XXII.

In a suit to foreclose a mortgage, if the Complaint has been taken as confessed, or the right of the Plaintiff as stated in the complaint is admitted by the answer, the plaintiff may have an order as of course referring it to a referee to compute the amount due the plaintiff, and to such of the defendants as are prior encumbrancers of the mortgaged premises, and to examine and report whether the mortgaged premises can be sold in parcels, if the whole amount secured by the Mortgage has not become due. If the defendant is an infant and has put in a general answer by his guardian, or if any of the defendants are absentees, the order of reference shall also direct the referee to take proof of the facts and circumstances stated in the complaint and to examine the plaintiff or his agent on oath as to any payments which have been made, and to compute the amount due on the mortgage, previous to the application for a decree of foreclosure and sale. In foreclosure cases, where the complaint is taken as confessed, the plaintiff before the decree is entered, must show by affidavit whether any of the defendants who have not appeared are absentees, and the regularity of the proceedings to take the complaint as confessed. The affidavit of regularity shall state that the Complaint has been taken as confessed upon a personal service of the subpoena upon all of the defendants, or after a voluntary appearance, or upon a proceeding against them, or some of them, as absentees, as the case may be, and that all the proceedings to take the complaint as confessed have been regular.

Rule XXIII

In every order or decree for the sale of Mortgaged Premises, the descriptive and particular boundaries of the property to be sold, so far at least, as the same can be ascertained from the mortgage, shall be inserted. And, unless otherwise specially ordered by the Court, the decree shall direct that the mortgaged premises, or so much thereof as may be sufficient to raise the amount due to the plaintiff for principal, interest and costs, and which may be sold separately without material injury to the parties interested, be sold by or under the direction of a special master appointed for that purpose, and that the plaintiff, or any other party, may become a purchaser on such sale; that the master execute a deed to the purchaser; that out of the proceeds of the sale the master pay to the plaintiff or his attorney the amount of his debt, interest and costs, or so much thereof as the purchase money will pay of the same, and that he take the receipt of the plaintiff or his attorney for the amount so paid and file the same with his report; that he bring the surplus moneys, if any there be, into Court without delay, and in case of a deficiency, that he report the amount of such deficiency; and that the purchaser at such sale be let into possession of the premises on production of the Master's deed.

Rule XXIV.

When mortgaged premises or other real estate directed to be sold consists of several distinct lots or parcels which can be sold separately without diminishing the value thereof on such sales, it shall be the duty of the master conducting the sale to sell the same in separate lots or parcels, unless otherwise especially directed by the Court, but if the master is satisfied the property will produce a greater price if sold together than in separate lots or parcels, he may sell it together, unless otherwise directed in the order of sale.

Rule XXV

Whenever a master sells mortgaged premises under a decree, order or judgment of the Court it shall be the duty of the plaintiff, before a deed is executed to the purchaser, to file such mortgage in the office of the Clerk, unless such mortgage has been duly proved or acknowledged so as to entitle the same to be recorded, in which case, if it has not been already done, it shall be the duty of the plaintiff to cause the same to be recorded at full length, in the County or County where the lands so sold are situated, before a deed is executed to the purchaser on the sale, the expenses of which filing or recording, and the entry thereof, shall be allowed in the taxation of Costs, and if filed with the Clerk, he shall enter in the minutes

the filing of such mortgage and the time of filing: but this rule shall not apply to any case when the mortgage appears by the pleadings or proof in the suit commenced thereon to have been lost or destroyed.

Rule XXVI.

When surplus moneys arise upon the sale of mortgaged premises, on filing the report of the sale, any party to the suit, or any person who had a lien on the mortgaged premises at the time of the sale, upon filing with the Clerk when the report of sale is filed a notice stating that he is entitled to such surplus moneys or some part thereof, and the nature and extent of his claim, may have an order of reference as of course to a referee to ascertain and report the amount due to him, or to any other person, which is a lien upon such surplus moneys, and to ascertain the priorities of the several liens thereon, to the end that on the coming in and confirmation of the report such further order may be made for the distribution of such surplus moneys as may be just. Every party who appeared in the cause, or who shall have filed such notice with the Clerk previous to the entry of the order of reference shall be entitled to service of a notice to attend on such reference, and to the usual notices of subsequent proceedings relative to such surplus. But if such claimant has not appeared or made his claim by an attorney of the Court, the notice may be served by putting the same in the Post Office, and prepaying the postage thereon, directed to the claimant at his place of residence as stated in the notice of his claim. All official searches for conveyances or encumbrances, made in the progress of the cause, shall be filed with the Clerk and notice given to any person having an unsatisfied lien on the surplus money in such manner as the Court shall direct.

Rule XXVII

When a suit is brought to obtain a divorce or separation, or to declare a Marriage Contract void, if the defendant fail to answer the Complaint, or if the facts charged in the Complaint are not denied in the answer, the Court may order a reference to take proof of all the material facts charged in the Complaint, and when the suit is for divorce on the ground of adultery, unless it be averred in the Complaint that the adultery charged was committed without the consent connivance, privity or procurement of the Plaintiff, that five years have not elapsed since the discovery of the fact that such adultery had been committed, and that the Plaintiff has not voluntarily cohabited with the defendant since such discovery, and if, at the time of the offence charged, the defendant

was living in adulterous intercourse with the person with whom the offense is alleged to have been committed, that five years has not elapsed since the commencement of such adulterous intercourse was discovered by the plaintiff, and if the complaint containing such averments be not verified by the oath of the plaintiff, a decree shall not be made for the relief prayed for in the complaint until the plaintiff's affidavit is produced stating the above facts.

Rule XXVIII

To obtain an order of reference, if the complaint seeks to annul a marriage on the ground that the party was under the age of legal consent, an affidavit must be produced showing that the parties thereto have not freely cohabited for any time as husband & wife after the plaintiff had attained the age of consent. If the plaintiff seeks to annul the marriage on the ground that the plaintiff's consent was obtained by force or fraud, the plaintiff must show by affidavit that there has been no voluntary cohabitation between the parties as man and wife; and if it seeks to annul a marriage on the ground that the plaintiff was a lunatic, an affidavit must be produced showing that the lunacy still continues, or the plaintiff must show by his affidavit that the parties have not cohabited as man and wife after he was restored to reason.

Rule XXIX.

On a reference to take proof of the facts charged in a complaint for separation or limited divorce, the examination of the plaintiff on oath may be taken as to any cruel or inhuman treatment alleged in the complaint which took place when no witnesses were present who are competent to testify to the facts on such reference.

Rule XXX.

The defendant, in the answer, may set up the adultery of the plaintiff, any other matter which would be a bar to a divorce, separation or the annulling of a marriage contract.

Rule XXXI

On a complaint filed by a husband for a divorce if he wishes to question the legitimacy of any of the children of his wife, the allegation that they are, or that he believes them to be, illegitimate shall be distinctly made in the complaint. If a reference is ordered, proof shall be taken upon the question of legitimacy as well as upon the other matters stated in the complaint.

Rule XXXII

No decree declaring void a marriage contract, or granting divorce, or for a separation, or for a limited divorce, shall be made of course by the default of the defendant, or in consequence of any neglect to appear at the hearing of the cause, or by consent. The details of the evidence in adultery causes shall not be read in public, but shall be submitted to the Court. No officer of the Court, with whom the proceedings in adultery causes are filed, or before whom the testimony is taken, nor any clerk of such officer, either before or after the termination of the suit shall permit a copy of any of the pleadings or testimony or of the substance of the details thereof, to be taken by any other person than a party, or the attorney or counsel of a party who has appeared in the cause, without a special order of the Court. No decree in a suit for divorce shall be entered except upon the special direction of the Court.

Rule XXXIII

In all actions for divorce where the defendant is served by publication as a non resident, the referee to whom reference is made to take testimony shall inquire and report as to the place of residence of the defendant at the time of the commencement of the action and during the time between the time of such commencement and the time of taking such testimony and report the same to the Court.

Rule XXXIV.

Demurrers and motions requiring notice shall be heard upon five days' notice of such hearing unless a different time is fixed by the Court. Hearing may be brought on by either party upon such notice, and if the opposite party fails to appear at the time and place fixed by the notice or order of the Court the hearing may proceed ex parte and the proper order of Judgment be entered accordingly.

Rule XXXV.

When the parties on either side are very numerous and cannot, without manifest inconvenience and oppressive delays, be all brought before the Court, the Court, in its discretion may dispense with making all of them parties and may proceed, having sufficient parties it to represent all the adverse interests of the plaintiffs and defendants in the suit; but in such cases, the decree shall be without prejudice to the rights and claims of all the absent parties.

Rule XXXVI.

When an injunction shall be granted or a receiver appointed ex parte, the order granting such injunction or appointing such receiver shall contain an order to show cause at a time and place designated therein, which time shall be within thirty days after the date of such order. Such order shall also be served upon the opposite party within such time before the day named to show cause as shall be designated therein by the Judge granting the same.

Rule XXXVII.

Every receiver of the property and effects of a debtor shall, unless restricted by the special order of the Court, have general power and authority to sue for and collect all the debts, demands and suits belonging to such debtor, and to compromise and settle such as are unsafe and of a doubtful character. He may also sue in the name of the debtor, when it is necessary or proper for him to do so; and he may apply for and obtain an order of Court that the tenants of any real estate belonging to the debtor; or on which he is entitled to the rents and profits, attorn to such receiver and pay their rents to him. He shall also be permitted to make leases from time to time, as may be necessary, for terms not exceeding one year, and it shall be his duty, without any unnecessary delay, to convert all the personal estate and effects into money; but he shall not sell any real estate without the special order of the Court until after final decree in the cause. He is not to be allowed for the costs of any suit brought by him against an insolvent from whom he is unable to collect the costs unless such suit is brought by order of the Court or by the consent of all the persons interested in the funds in his hands, but he may, by leave of the Court, sell such doubtful debts, and all other doubtful claims & personal property, at public auction, giving at least ten days notice of the time and place of such sale. He shall make full report of his proceedings at the beginning of each regular term.

Rule XXXVIII.

Commissions to take testimony may be taken out in vacation as well as in term, jointly by both parties or severally by either party, upon interrogatories filed by the party taking out the same in the Clerk's Office, five days notice thereof being given to the adverse party to file cross-interrogatories before the issuing of a commission; and if no cross-interrogatories are filed at the expiration

at the Time, the Commission may issue ex parte. If the Parties shall so stipulate in writing the testimony may be taken upon oral interrogatories by the Parties or their Agents without filing any written interrogatories. In all cases the Commissioner or Commissioners may be named by the Clerk.

Rule XXXIX.

The last interrogatory in the written interrogatories to take testimony shall be substantially as follows: "Do you know, or can you set forth any other matter or thing which may be of benefit or advantage to the Parties at issue in this Cause, or either Petition, or that may be material to the subject of this your examination or the matters in question in this Cause? If yes, set forth the same fully and at large in your answer."

Rule XL.

In cases where trial by Jury is not necessary three months and no more shall be allowed for the taking of testimony after the Cause is at issue, unless the Court shall, upon special Cause shown by either Party, diminish or enlarge the time and no testimony taken after such period shall be allowed to be read in evidence at the hearing. Immediately upon the return of the Commissions and depositions containing the testimony in the Clerk's Office, publication thereof may be ordered in the Clerk's Office by the Court upon due notice to the Parties, or it may be enlarged, as the Court may deem reasonable under all the circumstances. But, by Consent of the Parties, publication of the Testimony may at any time pass in the Clerk's Office, such Consent being in writing and a copy thereof entered in the Clerk's minutes, or endorsed upon the deposition or testimony. After the expiration of the time allowed for taking the testimony the Court may on its own motion set the Cause for final hearing on not less than five day's notice to the Attorneys of both Parties, either during a Term or in vacation.

Rule XLI.

All affidavits, depositions and documents which have been previously made, read or used in the Court upon any proceeding in the Cause or matter may be used before the Referee.

Rule XLII.

If any application for an order be made to any District Court or Judge, and such order be refused, in whole or in part, or be granted conditionally or on terms, no subsequent application upon the same state of facts, shall be made to any other District Court or Judge,

and if, upon such subsequent application, any order shall be made, it shall be revoked.

Rule XLIII.

An infant by his general guardian, if he has any, and if there is none, by his next friend, may present a petition, stating the age and residence of the infant, the situation and value of his real and personal estate, the situation, value and income of the real estate proposed to be sold, and the particular reasons which render a sale of the premises necessary and proper, and praying that a guardian may be appointed to sell the same. The petition shall also state the name and residence of the person proposed as such guardian, the relationship, if any, which he bears to the infant, and the security proposed. It shall be sworn, and the petition shall be accompanied by affidavits of disinterested persons, or by other proofs, verifying the material facts and circumstances alleged in the petition, and if the infant is of the age of fourteen he shall join in the application.

Rule XLIV.

If it satisfactorily appears that there is reasonable ground for the application an order may be entered appointing a guardian for the purpose of the application, on his executing and filing with the Clerk the required security, approved as to its form and manner of execution by the District Judge or Clerk, signified by his approval endorsed thereon, and directing a reference to a master to ascertain the truth of the facts stated in the petition and whether a sale of the premises, or any and what part thereof, would be beneficial to the infant, and the particular reasons therefor; and to ascertain the value of the property proposed to be sold, and of each separate lot and parcel thereof, and the terms and conditions upon which it should be sold, and whether the infant is in absolute need of any and what part of the proceeds of the sale for his support and maintenance over and above the income thereof and of his other property together with what he might earn by his own exertions; and if there is any person entitled to dower in the premises who is willing to join in the sale also to ascertain the value of her life estate in the premises, on the principle of life annuities. But no proceedings shall be had upon such reference until the Guardian produces the certificate of the Clerk that the required security has been duly proved or acknowledged and filed agreeably to the order of the Court, which certificate shall contain the name of the officer by whom it was approved and shall be annexed to the report. The report shall contain in itself a statement of the particular reasons which in the opinion of the master render a sale of the premises

necessary or proper, and all the facts required to be ascertained and reported, and shall not refer to the petition or affidavit for such a statement.

Rule. XLV.

The security required on the sale of the real estate of any infant shall be a bond of the Guardian with two sufficient sureties, in a penalty of double the value of the premises, including the interest on such value during the minority of the infant, each of which sureties shall be worth the penalty of the bond over and above all debts, or a similar bond of the Guardian only, secured by a mortgage on unincumbered real estate within this Territory of the value of the penalty of such bond.

Rule XLVI.

If the proceeds of the sale exceed five hundred dollars, and the Guardian has not given security by mortgage upon real estate, he shall bring the proceeds into Court or invest the same under the direction of the Court for the use of the infant, and the Guardian shall only be entitled to receive so much interest or income thereof, from time to time, as may be necessary for the support and Maintenance of the infant, within the order of the Court. When several infants are interested in the same premises as tenants in common the application in behalf of all shall be joined in the same petition, although they may have several general guardians, and there shall be but one reference to ascertain the propriety of a sale as to all.

Rule XLVII.

No Moneys arising from the sale of the real estate of an infant, or from a mortgage sale, or under any decree, Judgment or order of Court, shall be paid over to his general guardian, except so much thereof, or of the interest or income, from time to time, as may be necessary for his support or maintenance, unless such guardian has previously given sufficient security on unincumbered real estate to account to the infant for the same, in the usual form. No order shall be made for the payment of any such money to any person claiming the same, except upon petition accompanied by an certified copy of the order in pursuance of which the money was brought into Court, together with a statement of the deposition of the money, showing the present state and amount of the funds, separating the principal and the interest and showing the amount of each; And the Court may take such proof of the truth of the matters stated in the petition as shall be deemed proper, or may refer the same to a referee to take proof and report thereon.

Twenty Seventh Day, Wednesday Augt 25th A. D. 1897.

Rule XLVIII.

Whenever a party, as a tenant for life, or in any other manner, is entitled to the annual interest or income of any property or of any sum of money, such party shall be charged with the expense of Care for such property or of investing such sum, and of receiving and paying over the income or interest thereof; but if such party is willing and desirous to accept a gross sum in lieu of such annual interest or income for life, the same shall be estimated according to the then Value for an annuity of six per centum on the principal, during the probable life of such person, according to the American Experience Table of Mortality upon which is founded the following table, which shows the present Value of a six per cent, annuity of one dollar on a single life at any age from ten years to ninety five, both inclusive.

Life Annuities — First payment immediate.

age	Value	age	Value	age	Value	age	Value
10	$15.293	32	$14.154	54	$10.786	76	$5.157
11	15.265	33	14 064	55	10.556	77	4.908
12	15.236	34	13.969	56	10 321	78	4.660
13	15.204	35	13.870	57	10.081	79	4.413
14	15.171	36	13.765	58	9.836	80	4.467
15	15.137	37	13.655	59	9.586	81	3.924
16	15.100	38	13.540	60	9.332	82	3.683
17	15.062	39	13.418	61	9.074	83	3.445
18	15.021	40	13.291	62	8.813	84	3.205
19	14.978	41	13.157	63	8.549	85	2.964
20	14.932	42	13.017	64	8.283	86	2.724
21	14.885	43	12.870	65	8.016	87	2.488
22	14.834	44	12.716	66	7.747	88	2.263
23	14.781	45	12.555	67	7.479	89	2.050
24	14.725	46	12.386	68	7.212	90	1.842
25	14.666	47	12.211	69	6.945	91	1.637
26	14.604	48	12.028	70	6.681	92	1.443
27	14.538	49	11.838	71	6.420	93	1.285
28	14.469	50	11.640	72	6.163	94	1.135
29	14.396	51	11.436	73	5.908	95	1.000
30	14.320	52	11.226	74	5.656		
31	14.239	53	11.009	75	5.406		

To ascertain the value of the annuity, calculate the interest on the principal at six per cent, for one year and multiply that amount by the value in foregoing table set opposite the age of the person interested. If the first payment is to be made at the end of one year from the time the calculation is made, the value must be taken at one unit less than as given in the table.

It is ordered that Court do now adjourn until October 1st 1897 at 10 oclock A.m.

Thomas Smith
Lb. Dist.

Twenty eighth day. Friday Oct 1st 1897.

Present. Hon. Thomas Smith. Chief Justice
" N. B Laughlin Associate Justice
" N. C. Collier " "
" G. D Bantz " " and
" A. B. Hamilton " "
" Wm B. Childers, United States attorney for New Mexico
" C. M. Forster. " " Marshal " " "
" Geo. L. Hollyo. Clerk.

Court meets pursuant to adjournment.

The record of the proceedings of August 25th 1897 is read and approved. 720

694 The Manchester Fire Assurance company Plff in error
vs
William Walker Deft in error
} Error to Grant County

Now comes the defendant in error by his attorneys and moves the Court for leave to file a certain motion and motion herein, and the Court being fully advised in the premises, grants leave to file said motion.

Whereas it appears that the order of this Court made and entered on the 27th day of July A D 1897, at the July term A D 1897, of said Court approving the account for fees of Louis J. Marshall, United States Commissioner for the Third Judicial District of New Mexico, fails to recite the period covered by said account and it further appearing that the said account is for fees for the quarter ending June 30th 1897. It is therefore ordered that the Clerk of this Court insert in said order upon the record thereof, the said date of June 30th 1897.

740 The Denver and Rio Grande Railroad Company Plff in error
vs
The United States of America deft in error
} Error to First Judicial Dist. Court

Now comes the defendant in error and moves the Court

eighth Day, Friday Oct 1st A. D. 1897

to affirm the Judgment of the Court below, and the Court hear argument by A. A. Jones Esq. for said motion and William M. Field Esq. Counsel for Plaintiff in error opposing said motion and the Court not being sufficiently advised in the premises take the same under advisement.

It is ordered by the Court that Antonio Blanid be and he hereby is appointed bailiff to the Court and he thereupon appears in open Court and is duly sworn in as such.

The Denver & Rio Grande Rail Road Company
Plff in error
vs
The United States of America.
Deft in error
} Error to Sixth Judicial District Court.

Now comes the defendant in error and moves the Court to affirm the Judgment of the Court below, for reasons stated in the motion on file, and the Court hears argument by A. A. Jones Esq. for said motion.

It is ordered that Court do now adjourn until tomorrow at 2 oclock P. M.

Thomas Smith
Chief Justice.

Twenty ninth Day. Saturday Oct 2nd 1897.

Court meets pursuant to adjournment

Present as upon Yesterday.

The record of yesterday's proceedings is read and approved.

Whereas. Geo P. Money, assistant United States District Attorney for the District of New Mexico, has this day presented to the Court an account of his actual expenses from July 1st to September 30th 1897, and in the presence of the United States District Attorney for the said district, or his sworn assistant, has proven on oath to the satisfaction of the Court, that the expenses therein charged have been actually and necessarily incurred, and have been paid in lawful money; it is ordered by the Court that said account amounting to the sum of forty nine 81/100 dollars ($49.81) be, and the same is hereby approved.

Whereas, Geo. L Hyllyp, Clerk of the Supreme Court of the Territory of New Mexico, has rendered to this Court an account for his official services for the quarter ending September 30th A.D. 1897. with the items and vouchers thereof and in the presence of Hon Wm B Childers, United States Attorney for New Mexico, and has by his oath attached to the account proved to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated; and whereas said charges appear to be just and according to law, It is hereby ordered that said account amounting to $4.04 1/100 be and the same hereby is approved, and it is hereby certified that upon the days for which per diem is charged the Court was opened for business and business was actually transacted in Court or the Clerk attended as provided by sections 583-584. 671 or 672 Revised Statutes United States.

Whereas. C. M. Gildersleeve, Clerk of the First Judicial District Court of the Territory of New Mexico has rendered to this Court an account for his official services for the Quarter ending September 30th 1897. with

the items thereof, and in the person of William B Childers United States attorney for New Mexico, and by his oath attached to the account, proved to the satisfaction of the Court that the services therein charged have been actually and necessarily performed as therein stated; and whereas said charges appear to be just and according to law; It is hereby ordered that said account, amounting to $479.60 be and the same hereby is approved.

716. Henry Lockhart. Plff in error. vs J. D. Willson et al. Defts in error. } Error to Bernalillo County

This cause having been argued by counsel and submitted to and taken under advisement by the Court upon a former day of the present term the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Hamilton, Chief Justice Smith and Associate Justices Laughlin and Bantz concurring, reversing the Judgment of the Court below, and remanding this cause for a new trial for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the Judgment of the District Court in and for the County of Bernalillo in this cause came into this Court, be and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court for a new trial, and it is further considered by the Court that the plaintiff in error herein, do have and recover of the said defendants in error his costs in this behalf expended. Fee bill. for which let execution issue.

730 Wellington A. Simms appellee vs John D. W. Veeder. appellant } Appeal from Bernalillo County.

This cause having been argued by counsel and submitted to and taken under advisement by the Court upon a former day of the present term the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Hamilton—

Twenty-ninth Day, Saturday Oct 2nd A. D. 1897

Chief Justice Smith and Associate Justice Langhlin concurring. Associate Justice Bantz dissenting, reversing the Judgment of the Court below, and remanding this cause with directions to the Court below to dismiss the bill for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the Judgment of the district Court in and for the County of Bernalillo wherein this cause came in to this Court be and the same is hereby reversed, and that this cause be and the same hereby is remanded to said District Court with directions to dismiss the bill, and it is further considered by the Court that the appellant Jno D W Veeder, do have and recover of the said appellee, Willington A Givens his costs in this behalf expended, to be taxed, for which let execution issue.

711. Neill B Field
Affiner
C
John L Cain
Deft in error

Error to Santa Fe County

This Cause having been argued by counsel and submitted to and taken under advisement by the Court upon a former day of the present term, the same now sufficiently advised in the premises announces its decision by Associate Justice Bantz, Chief Justice Smith and Associate Justice Hamilton Concurring, reversing the Judgment of the Court below and remanding this cause with directions to grant a new trial, for reasons stated in the Opinion of the Court on file. It is therefore considered and adjudged by the Court that the Judgment of the District Court in and for the County of Santa Fe wherein this Cause came into this Court be and the same is hereby reversed, and that this cause be and the same hereby is remanded to said District Court with directions to grant a new trial of this cause, and it is further considered and adjudged by the Court that the Plaintiff in error do have and recover of the defendant in error his costs in this behalf expended to be taxed for which let execution issue.

709

Wells. Fargo & Co Express Co
appellee
vs
William A. Walker.
appellant

Appeal from District Court for Bernalillo County.

This Cause having been argued by Counsel and submitted to and taken under advisement by the Court upon a former day of this present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Laughlin, Chief Justice Smith and Associate Justice Hamilton, concurring. Associate Justice Bantz dissenting, reversing the Judgment of the Court below and remanding this cause with directions to the Court below to enter a dismissal of complainants bill at its costs on the payment by said Walker to Complainant of the sum of one Hundred dollars with interest at 12% per annum from December 19th. 1893 up to the date Walker made the tender in Court or to the Complainant. For reasons stated in the opinion of the Court on file, It is therefore considered and adjudged by the Court that the Judgment of the District Court in and for the County of Bernalillo whence this cause came into this Court be and the same is hereby reversed, and that this cause be and the same hereby is remanded to said district Court with directions to enter a dismissal of the Complainants bill at its costs on the payment by said Walker to Complainant of the sum of one Hundred dollars with 12% interest from December 19th 1893, up to the date that Walker made the tender in Court or to the Complainant. and it is further considered and adjudged by the Court that the said Appellant William A. Walker, do have and recover of the said appellee. Wells. Fargo & Co Company's Express, his costs in this behalf expended, to be taxed for which let execution issue.

719

Harriet E Berry et. al.
Plffs in error
vs
Neil B Field, executor. et al.
Defendants in error.

Error to District Court of Bernalillo County

This Cause having been argued by Counsel by Counsel and submitted to and taken under advisement by the Court at a former day of this present term

the Court being now sufficiently advised in the premises announces its decision by Chief Justice Smith, Associate Justices Laughlin, Hamilton and Baca concurring, reversing the Judgment of the Court below and remanding this cause for a new trial for reasons stated in the opinion of Court on file. It is therefore considered and adjudged by the Court that the Judgment of the District Court in and for the County of Bernalillo wherein this cause came into this Court, be and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court with directions to said District Court to grant a new trial in said cause. and it is further considered and adjudged by the Court that the said plaintiffs in Error herein, do have and recover of the said defendants in error their cost in this behalf expended, to be taxed. For which let execution issue.

737

Territory of New Mexico
appellee
vs
Jose Chavez y Chavez.
appellant

Appeal from District Court of San Miguel County.

This cause having been argued by Counsel and submitted to and taken under advisement by the Court at a former day of this present term, the Court being now sufficiently advised in the premises announces its decision by Associate Justice Baca, Associate Justices Collier, Hamilton and Laughlin concurring, affirming the Judgment, and sentence of the Court below, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the Judgment and sentence of the District Court in and for the County of San Miguel wherein this cause came into this Court, be and the same hereby is affirmed; and it appearing to the Court that the date fixed by the District Court aforesaid for the execution of said appellant, Jose Chavez y Chavez has passed, It is now further considered and adjudged by the Court that the said Jose Chavez y Chavez be and he hereby is committed to the custody of the Sheriff of the County of San Miguel, in the Territory of New Mexico. to be by him safely and securely confined in the Common Jail of said County of San Miguel until Friday the Twenty ninth day of October A D 1897. and on said day to be thence conveyed to some Convenient spot.

in said County of San Miguel and between the hours of five oclock in the forenoon and five oclock in the afternoon of said day, the said Jose Chavez y Chavez to be by said Sheriff hanged by the neck until he be dead; and it is further considered and adjudged by the Court that a duly certified copy of this Judgment and Sentence, attested by the Clerk of this Court shall be the warrant to said Sheriff for the due execution thereof.

United States of America
Plff in error
vs
Frank Lesnet et al.
Defts in error
} Error to Fifth Judicial District Court.

729

This cause having been argued by Counsel and submitted to and taken under advisement by the Court at a former day of this present term, the Court being now sufficiently advised in the premises, announces its decision by Associate Justice Langhlin, Chief Justice Smith and Associate Justices Collier and Baca concurring, affirming the Judgment of the Court below for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the Judgment of the District Court of the Fifth Judicial District in the Territory of New Mexico, whereon this cause came into this Court be and the same hereby is affirmed; and that in accordance therewith, it is ordered decreed and adjudged by the Court that the said application of Annie Lesnet be, and the same is hereby, granted; that the said real estate, that is to say, Lot No 8 in Block No 28 in the Town of Roswell, Chaves County, New Mexico, as shown on the Map of said town, was, at the time that such claim was made, the homestead of the said Frank Lesnet and his family, and that his said family is entitled to have the same set off and assigned to them. It is further ordered, adjudged and decreed that any sale heretofore made or attempted to be made of said Lot No 8. in Block No 28 as aforesaid, was without authority of law, and that such sale, if any were made be, and the same hereby is, set aside and declared void and void, and that the said Annie Lesnet, and the family of the said Frank Lesnet, are entitled to the same. And it is further ordered, adjudged and decreed that the said land and premises, to-wit: Lot 8 in Block 28 in the said Town of Roswell in the County of Chaves

as above described, be and the same is set apart to said Annie Lesnet as a homestead, and that she be allowed to hold and occupy the same as such, free from all claim of the said Plaintiff, United States of America, and that she be let into the possession thereof. And it is ordered that the Clerk of this Court deliver a certified copy of this decree to the United States Marshal for the District of New Mexico that the same may be executed. and it is further ordered that the costs incurred in this proceeding be taxed against the United States.

734 Rossie Barnett
Appellee
vs
Joseph Barnett
appellant
} Appeal from Bernalillo County.

This cause having been argued by counsel and submitted & and taken under advisement by the Court at a former day of the present term, the Court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith, Associate Justices Laughlin, Hamilton and Baca concurring, reversing the Judgement of the Court below, and remanding this Cause with directions to dismiss the bill, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the Judgement of the District Court in and for the County of Bernalillo wherein this cause came into this Court be and the same hereby is reversed, and that this cause be and the same hereby is remanded to said District Court with directions to dismiss the bill. It is further considered and adjudged by the Court that the appellant, Joseph Barnett do have and recover of said appellee his costs in this behalf expended, to be taxed, for which let execution issue.

672 John Boyle Jr
appellant
vs
The Mountain Key Mining Company et al
and William Walker and James A. Fielder.
appellees.
} Appeal from Socorro County

This cause having been argued by Counsel, and submitted

to and taken under advisement by the court at a former day of the present term, the Court being now sufficiently advised in the premises announces its decision by Chief Justice Smith, Associate Justices Collier and Laughlin concurring, affirming the Judgment of the Court below, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the Judgment of the District Court in and for the County of Brown, be, and the same hereby is affirmed and in accordance therewith, it is therefore considered adjudged and decreed by the Court that the Claim filed by John Boyle, Junior, against the said Mountain Key Mine and premises sought to be charged thereunto be, and the same is hereby denied, and the title to said Mountain Key Mine, together with all the appurtenances thereto, and the same is hereby decreed to be in William Wolfe and James D. Fielder, the intervening defendants herein, and it is further adjudged by the Court that the said appellees, do have and recover of the said appellant John Boyle, Jr. their costs, in the Court below as well as in this Court, in this behalf expended, to be taxed for which let execution issue.

Stern 2nd Kraus
Plff in error

727 vs.

Paul J Bates
Deft in error

Error to District Court of Bernalillo County.

This cause having been submitted to the Court at a former day of the present term, and taken under advisement, and the Court being now sufficiently advised in the premises announces its decision by Associate Justice Laughlin, Chief Justice Smith and Associate Justice Hamilton 2nd Banty, concurring, affirming the Judgment of the Court below, for reasons stated in the opinion of the Court on file. It is therefore considered and adjudged by the Court that the Judgment of the District Court in and for the County of Bernalillo whereon this cause came into this Court be, and the same hereby is affirmed, and that in accordance therewith; it is considered and adjudged by the Court that the said plaintiffs take nothing by their writ, that the said defendant go hence without day, and it is further considered and adjudged

by the Court that the defendant in error Paul. J. Bates do have and recover of the said Plaintiffs in error Klein & Krans, his costs as well in the Court below as in this Court, in this behalf expended to be taxed, for which let execution issue.

The Denver and Rio Grande Rail Road Company
Plff in error.
vs
720 The United States of America
Deft in error
} Error to First Judicial District Court

This cause coming on to be heard on the motion to affirm the Judgment of the Court below, the Court hears William. N. Field Esq in opposition to said motion, and the Court not being sufficiently advised in the premises takes the same under advisement.

Manchester Fire Assurance Company
Plff in error
vs
694 William Walker. Deft in error
} Error to Grant County

This cause having been argued by Counsel and submitted to the Court at a former day of this term, and the Court being now sufficiently advised in the premises, announces its decision by Chief Justice Smith, affirming the Judgment of the Court below Associate Justices. N. C. Collier. H. B Laughlin and R. S Hamilton concurring; and it appearing to the Court that Andrew Rogers and Wallace Hesselden are sureties on the Supersedeas bond of the said Plaintiff in error filed in this Cause and Court, It is therefore considered and adjudged by the Court that said William Walker, in accordance with the said Judgment of the District Court of the County of Grant, whence this cause came into this Court, and the Appellate Costs herein filed in and allowed by this Court, do have and recover of and from the said Manchester Fire Assurance Company of Manchester, England and Andrew Rogers and Wallace Hesselden the sum of five thousand dollars with interest thereon at the rate of six per cent per annum from and after the date of the entry of this Judgment, together with his costs in this behalf expended to be taxed, as well in the district Court for the County of Grant as in this Court and that he have execution therefor.

Thomas Smith
Chief Justice

The remainder of the proceedings of this date is recorded in Book B. beginning at page 1. Geo. L. Wilkes. Clerk